



भारत का राजपत्र The Gazette of India

आधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 50]

नई दिल्ली, शनिवार, दिसम्बर 10 1988/अग्रहायण 19, 1910

No. 50] NEW DELHI, SATURDAY, DECEMBER 10, 1988/AGRAHAYANA 19, 1910

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)

PART II—Section 3—Sub-section (II)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (other than
the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 17 अक्टूबर, 1988

(सायकर)

का.आ.3579:—आयकर अधिनियम, 1961 (1961 का 43)
की धारा 20-छ की उपधारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों
का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त धारा के प्रयोजनार्थ
सम्पूर्ण कर्नाटक राज्य में सार्वजनिक पूजा स्थल के रूप में प्रसिद्ध "श्री
कुमारस्वामी मन्दिर, हनुमन्ता नगर, बंगलूर" को इस शर्त पर अधि-
सूचित करती है कि मन्दिर के निर्माण के अलावा उपयोग की गई दोनों
से प्राप्त राजस्व का मन्दिर अथवा से सेवा-जोखा रहेगा।

यह अधिसूचना कर-निर्धारण वर्ष 1993-94 की प्रवृत्ति तक बध
रहेगी।

[सं. 8123/फा.सं. 176/31/88-आ.क. (नि.-1)]
मानसू हिशोर, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 17th October, 1988

(INCOME-TAX)

S.O. 3579.—In exercise of the powers conferred by clause
(b) of sub-section (2) of section 80G of the Income Tax
Act, 1961 (43 of 1961), the Central Government hereby

notifies "Sri Kumaraswamy Temple, Hanumanthnagar, Banga-
lore" to be a place of public worship of renown throughout
the State of Karnataka for the purpose of the said section
on the condition that the temple will maintain separate books
of accounts for the purpose and the donations received will
be utilised exclusively for the renovation of the temple.

This notification will be valid upto the period covered by
assessment year 1993-94.

[No. 8123/F. No. 176/31/88-IT (A1)]

ANAND KISHORE, Under Secy.

प्रति

नई दिल्ली, 22 नवम्बर, 1989

स्टाम्प

का.आ.3580:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का
2) की धारा 9 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों
का प्रयोग करते हुए केन्द्रीय सरकार उक्त मूल्य को माफ करती है जो
नेशनल थर्मल पावर कॉर्पोरेशन लि. द्वारा जारी किए जाने वाले मात
एक सौ पचास करोड़ रुपये के मूल्य के 0.0000001 से 15000000
(बीस लाख) वाले 10 वर्षों के अवधि के पूरा होने पर प्रति-
शत (कर मुक्त) प्राप्त विद्युत् बंधन-पत्रों के रूप में उल्लिखित प्रामित्यों
मोटों के स्वरूप के बंधन-पत्रों पर उक्त अधिनियम के अन्तर्गत प्रभावी है।

[सं. 41488-स्टाम्प-फा.सं. 33/62/88-वि. क.]

डी. आर. मेहता, अवर सचिव

ORDER

New Delhi, the 22nd November, 1988

STAMPS

S.O. 3580.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899, (2 of 1899), the Central Government hereby remits

the duty with which the bonds in the nature of promissory notes described as 9% (tax free) Secured Redeemable Bonds repayable after 10 years bearing Nos. 0.0000001 to 1500000 (forth series) of the value of rupees one hundred and fifty crores only to be issued by the National Thermal Power Corporation Ltd., are chargeable under the said Act.

[No. 46/88-Stamp-F No. 33/62/88-ST]

B. R. MEHMI, Under Secy.

(अध्य विभाग)

नई दिल्ली, 3 नवम्बर, 1988

का. आ. 3581.—राष्ट्रपति, संविधान के अनुच्छेद 77 के खण्ड (3) के अनुसरण में, वित्तीय शक्तियों का प्रत्यायोजन नियम, 1978 का और संशोधन करने के लिए, निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम वित्तीय शक्तियों का प्रत्यायोजन (संशोधन) नियम, 1988 है।
- (2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
2. वित्तीय शक्तियों का प्रत्यायोजन नियम 1978 में,
- (क) अनुसूची 2 के स्थान पर निम्नलिखित अनुसूची रखी जाएगी अर्थात्:—

“अनुसूची-2

स्थायी पदों के सृजन की शक्तियाँ

(नियम 13 देखिए)

टिप्पण:—स्थायी अर्थात्कृत पदों के सृजन के लिए अधीनस्थ प्राधिकारियों की शक्तियाँ पुष्कट आदेशों द्वारा विनियमित की जाती हैं।

प्राधिकारी

उन पदों के वर्ग जिनका सृजन किया जा सकेगा

1

2

केन्द्रीय सरकार के विभाग :

(i) संसदीय कार्य-सत्रालय और उपराष्ट्रपति सचिवालय।

(i) समूह “क” सेवाओं के पद :

(क) सचिवालय पद जो अवर सचिव की पक्ति से ऊपर के न हों; और

(ख) विहित वेतनमान वाले अन्य पद जिनका अधिकतम वेतनमान 4500 रु. प्रति मास से अधिक नहीं है;

(ii) समूह “क” समूह “ग” और समूह “ब” सेवाओं में पद।

(क) समूह “क” सेवाओं में विहित वेतनमान में 6700 रु. प्रति मास तक वेतन वाले पद।

टिप्पण : जहाँ किसी पद की संजूरी काल वेतनमान पर है वहाँ इस प्रविष्टि के प्रयोजन के लिए अधिकतम काल वेतनमान को वेतन के रूप में मान लिया जाए।

(ख) समूह “ख”, समूह “ग” और समूह “ब” सेवाओं में पद।

(ii) अध्य विभाग।

प्रशासक :

(i) लक्ष्मीप के सिवाय सभी संघ राज्यक्षेत्रों के प्रशासक।

समूह “क”, समूह “ग” और समूह “ब” सेवाओं के पद।

(ii) प्रशासक लक्ष्मीप विमानाव्यय

समूह “क” सेवाओं में पद।

समूह “ग” और समूह “ब” सेवाओं में पद।

(ख) अनुसूची 3 के स्थान पर निम्नलिखित अनुसूची रखी जाएगी, अर्थात्:—

“अनुसूची-3

प्रस्थायी पदों के सृजन की शक्तियाँ

(नियम 13 देखिए)

टिप्पण :—प्रस्थायी अर्थात्कृत पदों के सृजन के लिए अधीनस्थ प्राधिकारियों की शक्तियाँ पुष्कट आदेशों द्वारा विनियमित की जाती हैं।

प्राधिकारी

उन पदों का वर्ग जिनका सृजन किया जा सकेगा और वेतन की वह सीमा जिस तक किसी पद की संजूरी दी जा सकेगी—

वह अधिक जिसके लिए पदों की संजूरी दी जा सकेगी।

(1)	(2)	(3)
केंद्रीय सरकार के विभाग	(i) समूह "क" सेवाओं के पद	कोई विनिर्दिष्ट अवधि।
i) संघीय कार्य मंत्रालय और उपराष्ट्रपति सचिवालय	(क) सचिवालय पद जो अवर सचिव की पंक्ति से ऊपर के न हों। (ख) विहित वेतनमान वाले अन्य पद जिनका अधिकतम वेतनमान 4500 रु. प्रतिमास से अधिक नहीं है;	
	(ii) समूह "ख" समूह "ग" और समूह "घ" सेवाओं में पद	
(ii) अन्य विभाग	(i) समूह "ख" सेवाओं में विहित वेतनमान कोई विनिर्दिष्ट अवधि। में 8700 रु. प्रतिमास तक वेतन वाले पद। टिप्पण : जहां किसी पद की संजूरी कालके सेवाओं में है वहां इस प्रविष्टि के प्रयोजन के लिए अधिकतम काल वेतनमान को वेतन के रूप में मान लिया जाए। (ii) समूह "ख" समूह "ग" और समूह "घ" सेवाओं में पद	
प्रशासक	(i) समूह "क" सेवाओं में ऐसे पद जिनके वेतनमान 5000 रु. प्रतिमास से अधिक नहीं हैं और जिनके लिए प्रशासक नियुक्ति प्राधिकारी है। (ii) समूह "ख" समूह "ग" और समूह "घ" कोई विनिर्दिष्ट अवधि। सेवाओं में पद।	कोई विनिर्दिष्ट अवधि।
(ii) संबोद्ध दावरा और नागर हवेली तथा बमन और सीब	(i) समूह "क" सेवाओं में ऐसे पद जिनके वेतनमान 5000 रु. प्रतिमास से अधिक नहीं हैं और जिनके लिए प्रशासक नियुक्ति प्राधिकारी है। (ii) समूह "ख" समूह "ग" और समूह "घ" कोई विनिर्दिष्ट अवधि। सेवाओं में पद।	कोई विनिर्दिष्ट अवधि। छ. मास से अधिक किसी भी अवधि के लिए जिसके साथ पद को छ. मास से अधिक की और अवधि तक बढ़ाने की शक्ति होगी।
(iii) कानूनी विभागाध्यक्ष	समूह "ग" और समूह "घ" सेवाओं में पद समूह "ख" समूह "ग" और समूह "घ" सेवाओं में पद।	कोई विनिर्दिष्ट अवधि कोई विनिर्दिष्ट अवधि।

स्पष्टीकरण:—इस अनुसूची में, कोई विनिर्दिष्ट अवधि से अभिप्रेत

में यात्रा करता है, जब स्टाफ कार उपलब्ध नहीं होती।

(क) उस वक्ता में जहां अनुसूची के स्तम्भ (1) में विनिर्दिष्ट प्राधिकारी को उक्त अनुसूची के स्तम्भ (2) में विनिर्दिष्ट प्रस्थायी पद का सूजन करने की शक्ति है किन्तु ऐसे पद का स्थायी रूप में सूजन करने की शक्ति नहीं है वहां वो वर्ष से अधिक की अवधि, और

परन्तु जहां ऐसे यात्रा के लिए यात्रा भत्ता भी अनुबंध है, वहां ऐसे अधिकारी को इन नियमों के अधीन सवारी भाड़े को प्रतिपूर्ति कराने को या यात्रा भत्ता नियमों के अधीन यात्रा भत्ते का दावा करने को छूट होगी।

परन्तु यह और कि सवारी भाड़े को प्रतिपूर्ति निम्नलिखित शर्तों के अधीन होगी, अर्थात्:—

(ख) किसी अन्य विभाग में, कोई उल्लिखित अवधि।

(i) यदि एक से अधिक अधिकारियों से पदोप कर्तव्य पर किसी विनिर्दिष्ट स्थान के लिए भ्रमण होना अपेक्षित हो तो, उन्हें, जहां तक संभव हो सके, सवारी मिकलर लेनी होगी।

(ग) अनुसूची 6 के उपबन्ध में क्रम 3 के सामने, स्तम्भ 4 में, पैरा 1 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात्:—

(ii) नियोजन अधिकारी यह प्रमाणित करेगा कि स्टाफ कार संबंधित राजपत्रित सरकारी सेवक द्वारा की गई यात्रा के लिए उपलब्ध नहीं की जा सकी।

(क) राजपत्रित अधिकारियों के लिए, वास्तव में संवत् सवारी भाड़े को प्रतिपूर्ति किसी ऐसे राजपत्रित सरकारी सेवक को की जा सकती जो उस नगर की नगरपालिका की सीमाओं के भीतर जिसमें, मुख्यालय स्थित है, किसी सवारी में लोकहित

टिप्पण:—विभागाध्यक्ष, ऊपर वर्णित शर्तों के अधीन रहते हुए, सवारी भाड़े को स्वयं की प्रतिपूर्ति की संजूरी दे सकते हैं।

(ख) अराजपत्रित अधिकारियों के लिए:—सवारी भाड़े को प्रति-
पूति किसी ऐसे अराजपत्रित सरकारी सेवक को की जा सकेगी जो:—

(i) अपने कार्यालय से कुछ दूरी के स्थान में उस नगर की नगर-
पालिका सीमाओं के भीतर जिसमें उसका कार्यालय स्थित है,
कर्तव्य पर भेजा जाता है, या

(ii) किसी राजपत्रित अधिकारी के विशेष आदेश द्वारा कर्तव्य
सामान्य घंटों के परे कार्यालय में बुलाया/समन किया जाता
है:

परन्तु जहाँ ऐसी यात्रा के लिए यात्रा भत्ता अनुमोद है वहाँ ऐसे अधि-
कारी, को, इन नियमों के अधीन सवारी भाड़े की प्रतिपूर्ति
कराने की या यात्रा भत्ता नियमों के अधीन यात्रा भत्ते का
दावा करने का छूट होगी।

(घ) अनुसूची 6 की सारणी में, "शासक" शीर्षक के नीचे की
प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टियाँ रखी जाएंगी, अर्थात्:—

(i) लखनऊ के सिवाय सभी पूरी शक्तियाँ सब राज्य क्षेत्र के
प्रशासक।

(ii) प्रशासक, लखनऊ 2000 रु. प्रतिवर्ष 10,000 रु."

(ङ) अनुसूच. 7 की सारणी में,

(i) "स्टोरी या लोकधन की अवसुलनीय हानियाँ" प्रविष्टि के
सामने, "प्रशासक" शीर्षक के नीचे स्तम्भ 2 और 3 के
नीचे की प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियाँ
रखी जाएंगी, अर्थात्:—

(i) लखनऊ के सिवाय सभी सब राज्य क्षेत्रों के प्रशासक

(क) स्टोरी की उन हानियों के
लिए 1,00,000 रु. जो
चोरी, कपट या उपेक्षा के
कारण नहीं हुई हैं।

(ख) अन्य दशाओं में 25,000 रु.

(ii) प्रशासक, लखनऊ 25,000 रु."

(ii) "राजस्व की हानि या अवसुलनीय उधार या अग्रिम धन"
प्रविष्टि के सामने "प्रशासक शीर्षक के नीचे, स्तम्भ 2 और
स्तम्भ 3 के नीचे की प्रविष्टियों के स्थान पर निम्नलिखित
प्रविष्टियाँ रखी जाएंगी, अर्थात्:—

(i) "लखनऊ के सिवाय सभी सब 50,000 रु.।
राज्य क्षेत्रों के प्रशासक।

(ii) प्रशासक, लखनऊ 20,000 रु."
[सं.एक. 1(81)-ई II(ए)/87]
जी. श्यामेश्वरन, प्रभार सचिव

टिप्पण:—वित्तीय शक्तियों का प्रस्थायोजन नियम, 1978 अधिसूचना
सं. 2131, तारीख 22 जुलाई, 1978 द्वारा प्रकाशित किए
गए थे और तत्पश्चात् उनमें निम्नलिखित द्वारा संशोधन किए गए:—

- (i) अधिसूचना सं.का.आ. 1887, तारीख 9-6-1979
- (ii) अधिसूचना सं. का.आ. 2942, तारीख 1-9-1979
- (iii) अधिसूचना सं.का.आ. 2611, तारीख 4-10-1980
- (iv) अधिसूचना सं.का.आ. 2164, तारीख 15-8-1981
- (v) अधिसूचना सं.का.आ. 2304, तारीख 5-9-1981
- (vi) अधिसूचना सं.का.आ. 3073, तारीख 4-9-1982
- (vii) अधिसूचना सं.का.आ. 4171, तारीख 11-12-1982
- (viii) अधिसूचना सं.का.आ. 1314, तारीख 26-2-1983
- (ix) अधिसूचना सं.का.आ. 2502, तारीख 4-8-1984
- (x) अधिसूचना सं.का.आ. 32, तारीख 5-1-1985
- (xi) अधिसूचना सं.का.आ. 1958, तारीख 11-5-1985
- (xii) अधिसूचना सं.का.आ. 3082, तारीख 6-7-85
- (xiii) अधिसूचना सं.का.आ. 3974 तारीख 24-8-1985
- (xiv) अधिसूचना सं.का.आ. 8641, तारीख 21-12-1985
- (xv) अधिसूचना सं.का.आ. 1548, तारीख 19-4-1986
- (xvi) अधिसूचना सं.का.आ. 3183, तारीख 20-9-1986
- (xvii) अधिसूचना सं.का.नि.आ. 3767, तारीख 8-11-1986
- (xviii) अधिसूचना सं.का.आ. 2508, तारीख 19-9-1987
- (xix) अधिसूचना सं.का.आ. 3093, तारीख 7-11-1987

(Department of Expenditure)

New Delhi, the 3rd November, 1988

S.O. 3581 —In pursuance of clause (3) of article 77 of the Constitution of India, the President hereby
makes the following rules further to amend the Delegation of Financial Powers Rules, 1978, namely:—

(1) These rules may be called the Delegation of Financial Powers (Amendment) Rules, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Delegation of Financial Powers Rules, 1978, (a) for Schedule II, the following Schedule shall be
substituted, namely:—

SCHEDULE—II

POWERS TO CREATE PERMANENT POSTS

(See rule 13)

NOTE:— The powers of subordinate authorities for creation of permanent unclassified posts are regulated by
separate orders.

Authority	Class of posts which may be created
Departments of the Central Government:—	
(i) Ministry of Parliamentary Affairs and Vice-President's Secretariat.	(i) Posts in Group A Services: (a) Secretariat posts not above the rank of Under Secretary; (b) Other posts carrying prescribed scale the maximum of which does not exceed Rs. 4500 per mensem; (ii) Posts in Group B, C and D Services.

(1)	(2)
(ii) Other Departments	(a) Posts in Group A services on pay upto Rs. 6700 per mensem in the prescribed scale. Note: Where a post is sanctioned on a time scale the maximum of the time scale should be taken as pay for the purpose of this entry. (b) Posts in Groups B, C and D Services.
Administrators:	
(i) Administrators of all the Union territories except Lakshadweep.	Posts in Groups B, C and D Services.
(ii) Administrator, Lakshadweep.	Posts in Group D Services.
Heads of Departments	Posts in Groups C and D Services.

(b) for Schedule III the following Schedule shall be substituted, namely:-

"SCHEDULE-III

POWERS TO CREATE TEMPORARY POSTS

(See rule 13)

NOTE:- The powers of subordinate authorities for creation of temporary unclassified posts are regulated by separate orders.

Authority	Class of posts which may be created and the limit of pay upto which a post may be sanctioned.	Period for which the posts may be sanctioned.
(1)	(2)	(3)
Departments of the Central Government:		
(i) Ministry of Parliamentary Affairs and Vice President's Secretariat.	(i) Posts in Group A Services: (a) Secretariat posts not above the rank of Under Secretary; (b) Other posts carrying prescribed scale the maximum of which does not exceed Rs. 4500 per mensem; (ii) Posts in Groups B, C and D Services.	Any specific period.
(ii) Other Departments.	(i) Posts in Group A Services on pay upto Rs. 6700 per mensem in the prescribed scale. Note: Where a post is sanctioned on a time scale the maximum of the time scale should be taken as pay for the purpose of this entry. (ii) Posts in Groups B, C and D Services.	Any specified period.
Administrators:		
(i) Andaman and Nicobar Islands, Delhi and Pondicherry.	(i) Posts in Group A Services, the maximum of whose scales of pay does not exceed Rs. 5000 per mensem and to which the Administrator is the appointing authority. (ii) Posts in Groups B, C and D Services.	Any specified period. Any specified period.

(1)	(2)	(3)
(ii) Chandigarh, Dadra and Nagar Haveli and Daman and Diu.	(i) Posts in Group A Services, the maximum of whose scales of pay does not exceed Rs.5000 per mensem and to which the Administrator is the appointing authority. (ii) Posts in Groups B C, and D Services.	Initially for any period not exceeding six months with power to extend the post by not more than a further period of six months. Any specified period.
(iii) Lakshadweep. Heads of Departments.	Posts in Groups C and D Services. Posts in Groups B, C and D Services.	Any specified period. Any specified period.

Explanation: In this Schedule, "any specified period" means:—

(a) in the case where the authority specified in column 1 of the Schedule has power to create a temporary post specified in column 2 of the said Schedule but has no power to create such post permanently, a period not exceeding two years; and

(b) in any other case, any stated period.”;

(c) in Schedule V, in the Annexure, against serial number 3, in column 4, for paragraph 1, the following paragraph shall be substituted, namely:—

“1. (A) For Gazetted Officers: The conveyance hire charges actually paid may be reimbursed to a Gazetted Government servant, who performs a journey in the public interest, within the municipal limits of the city in which his headquarter is situated, in a conveyance when a staff car is not available:

Provided that where travelling allowance is also admissible for such a journey, it will be open to the officer either to claim reimbursement of the conveyance hire under these rules or travelling allowance under the travelling Allowance Rules:

Provided further that the reimbursement of the conveyance hire shall be subject to the following conditions, namely:—

(i) If more than one officers are required to proceed to a particular place on official duty, they shall share the conveyance as far as possible.

(ii) The controlling officer shall certify that the staff car could not be made available for the journey performed by the Gazetted Government servant concerned.

NOTE: Heads of Departments may sanction to themselves the reimbursement of conveyance hire charges subject to the conditions mentioned above.

(B) For Non-Gazetted Officers: The conveyance hire charges be reimbursed to a non-Gazetted Government servant who—

(i) is despatched on duty to a place at some distance from his office within the municipal limits of the city in which his office is situated; or

(ii) is summoned to office outside the ordinary hours of duty by special order of a Gazetted Officer:

Provided that where travelling allowance is admissible for such a journey, it will be open to the Government servant concerned either to claim reimbursement of the conveyance hire under these rules, or travelling allowance under the Travelling Allowance Rules”;

(d) in Schedule VI, in the Table, for the entries under the heading ‘Administrators’, the following entries shall be substituted; namely:—

“(i) Administrators of all the Union territories except Lakshadweep.	Full powers	Full powers
(ii) Administrator, Lakshadweep	Rs. 2,000 a year.	Rs. 10,000.”;

(e) in Schedule VII, in the Table,

(i) against the entry "Irrecoverable losses of stores or of public money", under the heading 'Administrators', for the entries under columns 2 and 3, the following entries shall be substituted; namely:-

"(i) Administrators of all the Union territories except Lakshadweep. (a) Rs. 1,00,000 for losses of stores not due to theft, fraud or negligence.

(b) Rs. 25,000 for other cases.

(ii) Administrator, Lakshadweep. Rs. 25,000."

(ii) against the entry "Loss of revenue or irrecoverable loans and advances", under the heading 'Administrators', for the entries under columns 2 and 3, the following entries shall be substituted; namely:-

"(i) Administrators of all the Union territories except Lakshadweep. Rs. 50,000.

(ii) Administrator, Lakshadweep. Rs. 20,000."

[No. F. 1 (51)-E. II(A)/87]

D. THYAGESWARAN, Under Secy.

NOTE:- The Delegation of Financial Powers Rules, 1978 published vide Notification No. So. 2131, dated July 22, 1978 have subsequently been amended by:-

- (i) Notification No. SO. 1887, dated 9-6-1979.
- (ii) Notification No. SO. 2942, dated 1-9-1979.
- (iii) Notification No. SO. 2611, dated 4-10-1980.
- (iv) Notification No. SO. 2164, dated 15-8-1981.
- (v) Notification No. SO. 2304, dated 5-9-1981.
- (vi) Notification No. SO. 3073, dated 4-9-1982.
- (vii) Notification No. SO. 4171, dated 11-12-1982.
- (viii) Notification No. SO. 1314, dated 26-2-1983.
- (ix) Notification No. SO. 2532, dated 4-8-1984.
- (x) Notification No. SO. 22, dated 5-1-1985.
- (xi) Corrigendum No. SO. 1958, dated 11-5-1985.
- (xii) Notification No. SO. 3082, dated 6-7-1985.
- (xiii) Notification No. SO. 3974, dated 24-8-1985.
- (xiv) Notification No. SO. 5641, dated 21-12-1985.
- (xv) Notification No. SO. 1548, dated 19-4-1986.
- (xvi) Notification No. SO. 3183, dated 20-9-1986.
- (xvii) Notification No. SO. 3787, dated 8-11-1986.
- (xviii) Notification No. SO. 2508, dated 19-9-1987.
- (xix) Notification No. SO. 3092, dated 7-11-1987.

(आर्थिक कार्य विभाग)

(Department of Economic Affairs)

(बैंकिंग प्रभाग)

(Banking Division)

नई दिल्ली, 27 सितम्बर, 1988

New Delhi, the 27th September, 1988

का. शा. 3582.—प्रदेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 की उपधारा 2 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री एम. पी. पटेल को जिनकी धारा 11 की उपधारा (1) के तहत दुम्गारपुर बाँसवाड़ा क्षेत्रीय ग्रामीण बैंक, दुम्गारपुर के अध्यक्ष के रूप में नियुक्ति की तीन वर्षे 9 महीने की पहली अवधि 31-12-87 को समाप्त होगी है, 01-01-88 से प्रारंभ होकर 3-10-88 को समाप्त होने वाली अवधि के लिये उक्त बैंक का पुनः अध्यक्ष नियुक्त करती है।

S.O. 3582.—In exercise of the powers conferred by sub-section (2) of section 11 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby reappoints Shri M. P. Patni whose earlier tenure of three years nine months appointment under sub-section (1) of section 11 had expired on 31-12-87 as the Chairman of Dungarpur Banswara Kshetriya Gramin Bank, Dungarpur for a further period commencing from 1-1-88 and ending with 3-10-88.

[संख्या एक. 2-33/88-प्रारंभ और बी]

[No. F. 2—33/88-RRB]

नई दिल्ली, 15 नवम्बर, 1988

ORDER

S.O. 3585.—In pursuance of sub-section 2 of Section 21 of the Industrial Finance Corporation Act, 1948 (15 of 1948), the Central Government hereby guarantees the repayment of the principal and payment of interest at the rate of 11.5% (Eleven and half per cent) per annum as fixed by the Central Government in respect of the bonds to be issued by the Industrial Finance Corporation of India, on the 13th December, 1988 and maturing on 13th December, 2008.

[F. No. 6(11)/I.F. 1/88]

P. K. MALHOTRA, Under Secy.

का. प्रा. 3583.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा भारत सरकार, वित्त मंत्रालय (व्यापिक कार्य विभाग) की अधिसूचना सं. का. प्रा. 585 (ई) दिनांक 28 जुलाई, 1988 में पुनः निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में "सिबसागर और नौगांव जिले" शब्दों को स्थान पर "सिबसागर, जौरहाट, गोलाघाट तथा मोगांव जिले तथा मायांग मौजा जोकि प्रागज्योतिशपुर जिले का भाग है" शब्द प्रतिस्थापित किया जाएगा।

[सं. एक. 1(6) 85-प्रार. प्रार. बी.]

बी. बी. माथुर, प्रवर सचिव

New Delhi, the 15th November, 1988

S.O. 3583.—In exercise of the powers conferred by sub-section (1) of section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. S.O. 585(E), dated the 28th July, 1980, namely:—

In the said notification, for the words "districts of Sibsagar and Nowgong", the words "districts of Sibsagar, Jorhat, Golaghat and Nowgong; and Mayang mouza which forms part of Pragiyotishpur district" shall be substituted.

[No. F. 1(6)/85-RRB]

V. B. MATHUR, Under Secy.

नई दिल्ली, 24 नवम्बर, 1988

का. प्रा. 3584.—केन्द्रीय सरकार, औद्योगिक वित्त निगम अधिनियम, 1948 (1948 का 15) की धारा 21 की उप-धारा (2) के अनुसरण में भारतीय औद्योगिक वित्त निगम के निदेशक बोर्ड की सिफारिश पर उक्त निगम द्वारा 13 दिसम्बर, 1988 को जारी किए जाने वाले और 13 दिसम्बर, 2008 को परिपक्व होने वाले बांडों पर वेध ब्याज की दर एतद्वारा 11.5% (साढ़े प्यारह प्रतिशत) वार्षिक निर्धारित करती है।

[फा. सं. 6(11)-आई. एक. 1/88]

New Delhi, the 24th November, 1988

S.O. 3584.—In pursuance of sub-section 2 of Section 21 of the Industrial Finance Corporation Act, 1948 (15 of 1948), the Central Government on the recommendation of Board of Directors of the Industrial Finance Corporation of India, hereby fixes 11.5% (Eleven and half percent) per annum as the rate of interest payable on the bonds to be issued by the said Corporation on 13th December, 1988 and maturing on 13th December, 2008.

[F. No. 6(11)/I.F. 1/88]

प्रवेश

का. प्रा. 3585.—केन्द्रीय सरकार, औद्योगिक वित्त निगम अधिनियम, 1948 (1948 का 15) की धारा 21 की उप-धारा (2) के अनुसरण में भारतीय औद्योगिक वित्त निगम द्वारा 13 दिसम्बर, 1988 को जारी किए जाने वाले और 13 दिसम्बर, 2008 को परिपक्व होने वाले बांडों के सम्बन्ध में एतद्वारा मूलधन की पुनर्प्रवायगी करने तथा केन्द्रीय सरकार द्वारा यथा निर्धारित 11.5% (साढ़े प्यारह प्रतिशत) वार्षिक की दर से ब्याज की प्रवायगी करने की गारंटी देती है।

[फा. सं. 6(11)-आई. एक. 1/88]

पी. के. मल्होत्रा, प्रवर सचिव

केन्द्रीय उत्पाद शुल्क समाहृतलिय

अधिसूचना क्रमांक 8/88

नागपुर, 16 नवम्बर, 1988

का. प्रा. 3586.—समाहृतलिय केन्द्रीय उत्पाद शुल्क, नागपुर, के सी टी. के. पाटिल, अधीक्षक, केन्द्रीय उत्पाद शुल्क, समूह "ख" नियंत्रण की प्राप्ति करने पर दिनांक 31-10-88 को अपरान्ह में वास्तविक सेवा से निवृत्त हो गए।

[प. सं. II (3) 6/88/स्थापना-I/88079]

जील राम कैत, उप समाहर्ता (कार्मिक एवं स्थापना)

CENTRAL EXCISE COLLECTORATE

NOTIFICATION NO. 8/88

Nagpur, the 16th November, 1988

S.O. 3586.—Shri T. K. Patil, Superintendent, Central Excise Group 'B' of Nagpur Collectorate having attained the age of superannuation retired from Government Service on 31-10-1988 in the afternoon.

[C. No. II(3)6/88/Et. I/88079]

J. R. KA/T, Dy. Collector (P&E)

वार्णिश्य मंत्रालय

नई दिल्ली, 10 दिसम्बर, 1988

का. प्रा. —केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स जे. बी. मोडा, सर्वेयर्स प्रा. लि. विभाग टिम्बर यार्ड प्राइमर्स, हार्वर एग्जोव रोड, विशाखापत्तनम्-530035 को यहाँ उक्त उपाखण्ड में अनुसूची विनिर्दिष्ट मैंगनीज तथा ग्रयस्क ग्रुप-I व ग्रुप-II का निर्यात से पूर्व निरीक्षण करने के लिए इन बातों के अधीन अधीकरण के रूप में माय्यता देती है, कि संगठन मैंगनीज तथा ग्रयस्क ग्रुप-I तथा ग्रुप-II के निर्यात (निरिक्षण) नियम, 1965 के नियम 4 के उपनियम 4 के अंतर्गत निर्यात निरीक्षण परिषद् के किसी भी अधिकारी को निरीक्षण प्रमाण-पत्र जारी करने के लिए संगठन द्वारा प्रपत्ताई गयी निरीक्षण प्रणाली को जांच करने के लिए पर्याप्त सुविधाएं देगा।

अनुसूची

अनिज तथा ग्रयस्क (ग्रुप-I)

1. मैंगनीज ग्रयस्क, मैंगनीज बायक्साइड सहित
2. ग्रायस्क ग्रयस्क
3. बाक्साइड, कैलसिड बाक्साइड सहित।
4. फेरोमैंगनीज फेरोमैंगनीज स्लेस सहित

शक्ति तथा प्रयत्न (घुन-2)

1. मैंगनीज डायक्साइड
2. क्रोम प्रयत्न, क्रोम कूर्च सहित
3. क्यनाइट
4. सिलिमनाइट
5. सक्रियित चिक सहित कच्चा जिंक
6. परचुर और निर्यात मैंगनेसाइट सहित मैंगनेसाइट
7. बैरिटाइट
8. राख आक्साइड
9. पेटा मैग्नीश
10. रंगक
11. सनीय (फेल्डस्पार)

[फाईल सं. 5(15)/88-ईआई एण्ड ईपी]

MINISTRY OF COMMERCE

New Delhi, the 10th December, 1988

S.O. 3567.—In exercise of the powers conferred by section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year from the date of publication of this notification Ms. J. B. Boda Surveyors Pvt. Ltd., Vizag Timber Yard Premises, Harbour Approach Road, Vizag-530035 as an agency for inspection of the Minerals and Ores Group-I and Group-II specified in Schedule annexed here to prior to export subject to the condition that the organisation shall give adequate facilities to any officer of the Export Inspection Council to examine the method of inspection followed by the organisation in granting the certificate of inspection under sub-rule (4) of rule 4 the Export of Minerals and Ores Group-I and Group-II (Inspection) Rule 1965.

SCHEDULE

I. Minerals and Ores Group-I.

1. Manganese Ore, excluding manganese dioxide.
2. Iron Ore.
3. Ferromanganese including ferromanganese slag.
4. Bauxite, including calcined bauxite.

II. Minerals and Ores Group-II.

1. Manganese Dioxide.
2. Chrome ore, including chrome concentrates.
3. Kyanite.
4. Sillimanite.
5. Zinc ores, including zinc concentrates.
6. Magnesite, including dead burnt and calcined magnesite.
7. Barytes.

8. Red Oxide.

9. Yellow Ochre.

10. Steatite.

11. Feldspar.

[F. No. 5(15)/88-EI&EI]

का. प्रा. 3588.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, जैसे-जैसे. बी. बोडा, सर्वेयर प्रा. लि., विभाग टिम्बर यार्ड प्राइमरी, हार्वर एप्रोच रोड, विशाखापत्तनम्-530035 को भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का. प्रा. 1270 तारीख 23 मार्च, 1966 के उपाबंध की अनुसूची में विनिर्दिष्ट प्रकाशन न्यायनों का निर्यात में निरीक्षण करने के लिए इस अधिसूचना के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए इस शर्त के अधीन अधिकरण के रूप में मान्यता देती है कि संगठन, प्रकाशन न्यायनों के निर्यात (निर्यात) नियम, 1966 के नियम 4 के उपनियम (4) के अन्तर्गत निर्यात निरीक्षण प्रत्येक के कितने भी अधिकारी को निरीक्षण प्रमाण-पत्र जारी करने के लिए, संगठन द्वारा अपनाई गयी निरीक्षण प्रणाली की जांच करने के लिए पर्याप्त सुविधाएं देगा।

[फाईल सं. 5(15)/88-ईआई एण्ड ईपी]

S.O. 3588.—In exercise of the powers conferred by section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) the Central Government hereby recognises for a period of one year with effect from the date of publication of this notification Ms. J. B. Boda Surveyors Pvt. Ltd. Vizag Timber Yard Premises, Harbour Approach Road Visakhapatnam-530035 as an agency for inspection of the Inorganic Chemicals special in schedule annexed to the notification of the Govt. of India, Ministry of Commerce No. S.O. 1270 dated the 9th March, 1966 prior to their export subject to the condition that the organisation shall give adequate facilities to any officer of the Export Inspection Council to examine the method of inspection followed by the organisation in granting the certificate of inspection under sub-rule (4) of rule 4 of the Export of Inorganic Chemicals (Inspection) Rule, 1966.

[F. No. 5(15)/88-EP&EP]

का. प्रा. 3599.—निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (i) द्वारा दत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा जैसे-जैसे कोगेमण्डल पोस्ट कस्टोडियन सर्विसेज 42-1-24, रंगईया नायडु स्ट्रीट, काकोनाडा-533007 को अधिनियम फोमकाइड का निम्नलिखित मदों के लिए घुसक के रूप में प्रयोग करने हुए घुसक के लिए अधिकरण के रूप में मान्यता देती है।

1. रंग रहित आशन की सुली, और
2. ब्रूई काचरा, खुर तथा गीन।

[फाईल सं. 5(13)/88-ईआईएण्ड ईपी]

एन. एम. हरिहरन, संयुक्त सचिव

S.O. 3589.—In exercise of the powers conferred by sub-section (i) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises

for a period of one year from the date of publication of this notification M/s. Coromandal Pest Control Services, 42-1-24, Rangyya Naidu Street, Kakinada-533007 as an agency for the fumigation using Aluminium Phosphide as a fumigant for following items :—

1. De-oiled Aice Bran, and
2. Crushed Btmes, Hooves and Horns.

[F. No. 5(13)/88-EI&EP]

N. S. HARIHARAN, Joint Secy.

मुख्य निर्यातक, आयात निर्यात का कार्यालय

आदेश

नई दिल्ली, 18 नवम्बर, 1988

का. आ. 3590.—मैसर्स टाटा टेलिकम लि. ए-78/4/6, गांधी नगर इलेक्ट्रॉनिक्स एस्टेट गांधीनगर-382015 (गुजरात) को सामान्य मुद्रा क्षेत्र के अधीन संलग्न सूची के अनुसार संघटकों के आयात के लिए 1,84,16,000/- रुपये (एक करोड़ चौरासी लाख और सोलह हजार रुपये मात्र) का आयात लाइसेंस संख्या पी/डी/1096970 दिनांक 8-7-88 दिया गया था।

फर्म ने उपर्युक्त लाइसेंस की सीमा-शुल्क प्रयोजन प्रति की अनुलिपि प्रति के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल सीमा-शुल्क प्रयोजन प्रति खो गई या अस्थानस्थ हो गई है। आगे यह भी कहा गया है कि सीमा-शुल्क प्रयोजन प्रति, सीमा-शुल्क प्राधिकरण, एयर कार्गो कम्प्लेक्स आई ए ए आई बिल्डिंग, नई दिल्ली के पास पंजीकृत कराने के बाद और उसका आंशिक उपयोग करने के बाद खोई है।

2. अपने तर्क के समर्थन में लाइसेंसधारी ने नोटरी पब्लिक, दिल्ली प्रशासन, दिल्ली के सामने विधिवत् शपथ लेकर स्टाम्प कागज पर एक शपथ-पत्र दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि फर्म द्वारा आयात लाइसेंस सं. पी/डी/1096970 दिनांक 8-7-88 की मूल सीमा-शुल्क प्रयोजन प्रति खो गई या अस्थानस्थ हो गई है। यथासंशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की उपधारा 9 (गग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं टाटा टेलिकम लि. गांधी नगर, गुजरात को जारी किए गए उक्त मूल सीमा-शुल्क प्रयोजन प्रति सं. पी/डी/1096970 दिनांक 8-7-88 को एतद्वारा रद्द किया जाता है।

3. उक्त लाइसेंस की अनुलिपि प्रति पार्टी को अलग से जारी की जा रही है।

[सं. सप्ल/एन एस/173/डीजीटीडी/एम-89/एसएलएस/1374]

OFFICE OF THE CHIEF CONTROLLER OF IMPORTS AND EXPORTS

ORDERS

New Delhi, the 18th November, 1988

S.O. 3590.—M/s. Tata Telecom Ltd. A-78/4/6, Gandhi Nagar Electronics Estate, Gandhi Nagar-382015 (Gujarat) were granted an import licence No. P/D/1096970 dated 8-7-88 for Rs. 1,84,16,000 (Rupees One crore eighty four lakhs and sixteen thousand only) for import of items as per list attached, under GCA.

2. The firm has applied for issue of Duplicate copy of Customs Purposes copy of the above mentioned licence on the ground that the original customs purposes copy of the licence has been lost or misplaced. It has further been stated that the Customs Purposes Copy of the licence has been lost after having registered with Customs Authority, Air Cargo Complex, IAAI, Building, New Delhi and having been utilised partly.

3. In support of their contention, the licensee has filed an affidavit on Stamped Paper duly sworn in before a Notary Public, Delhi Administration, Delhi. I am accordingly satisfied that the Original Customs Purposes Copy of Import Licence No. P/D/1096970 dated 8-7-88 has been lost or misplaced by the firm. In exercise of the powers conferred under Sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended the said original Customs Purposes Copy No. P/D/1096970 dated 8-7-88 issued to M/s. Tata Telecom Gandhi Nagar, Gujarat is hereby cancelled.

4. A duplicate Customs Purposes Copy of the said licence is being issued to the party separately.

[No. Suppl./NS/173/DGTD/AM-89/SIS/1374]

आदेश

का. आ. 3591.—मैसर्स टाटा टेलिकम लि. ए-78/4/6, गांधी नगर इलेक्ट्रॉनिक्स एस्टेट गांधी नगर-382015 (गुजरात) को सामान्य मुद्रा क्षेत्र के अधीन संलग्न सूची के अनुसार संघटकों के आयात के लिए 81,23,000/- रुपये (इकस लाख तेईस हजार रुपये मात्र) का आयात लाइसेंस संख्या पी/डी/1096967 दिनांक 8-7-88 दिया गया था।

फर्म ने उपर्युक्त लाइसेंस की सीमा-शुल्क प्रयोजन प्रति की अनुलिपि प्रति के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल सीमा-शुल्क प्रयोजन प्रति खो गई या अस्थानस्थ हो गई है। आगे यह भी कहा गया है कि सीमा-शुल्क प्रयोजन प्रति, सीमा-शुल्क प्राधिकरण, एयर कार्गो कम्प्लेक्स आई ए ए आई बिल्डिंग, नई दिल्ली के पास पंजीकृत कराने के बाद और उसका आंशिक उपयोग करने के बाद खोई है।

2. अपने तर्क के समर्थन में लाइसेंसधारी ने नोटरी पब्लिक, दिल्ली प्रशासन, दिल्ली के सामने विधिवत् शपथ लेकर स्टाम्प कागज पर एक शपथ पत्र दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि फर्म द्वारा आयात लाइसेंस सं. पी/डी/1096967 दिनांक 8-7-88 की मूल सीमा-शुल्क प्रयोजन प्रति खो गई या अस्थानस्थ हो गई है। यथासंशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की उपधारा 9 (गग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं टाटा टेलिकम लि. गांधीनगर, गुजरात को जारी किए गए उक्त मूल सीमा-शुल्क प्रयोजन प्रति सं. पी/डी/1096967 दिनांक 8-7-88 को एतद्वारा रद्द किया जाता है।

3. उक्त लाइसेंस की अनुलिपि प्रति पार्टी को अलग से जारी की जा रही है।

[सं. सप्ल/एन एस/171/डीजीटीडी/एम-89/एसएलएस/1375]

से. कुजूर, उपमुख्य निर्यातक, आयात-निर्यात

S.O. 3591.—M/s. Tata Telecom Ltd., A-78/4/6, Gandhi Nagar Electronics Estate Gandhinagar-382015 (Gujarat) were granted an import licence No. P/D/1096967 dated 8-7-88 for Rs. 81,23,000 (Rupees Eighty one lakhs and twenty three thousands) for import of Component as per list attached under GCA.

The firm has applied for issue of Duplicate copy of Customs Purposes Copy of the above mentioned licence on the ground that the original Customs Purposes Copy of the licence has been lost or misplaced. It has further been stated that the Customs Purposes Copy of the licence has been lost after having been registered with Customs Authority, Air Cargo Complex IAAI, Building, New Delhi, and having been utilised partly.

2. In support of their contention, the licensee has filed an affidavit on Stamped paper duly sworn in before a Notary Public, Delhi Administration, Delhi. I am accordingly satisfied that the original Customs Purposes Copy of import licence No. P/D/1096967 dated 8-7-88 has been lost or misplaced by the firm. In exercise of the powers conferred under Sub-clause 9(cc) of the Import (Control) Order, 1955

dated 7-2-1955 as amended the said original Customs Purposes Copy No. P/D/1096967 dated 8-7-88 issued to M/s. Tata-Telecom Ltd. Gandhi Nagar, Gujarat is hereby cancelled.

3. A duplicate Customs Purposes Copy of the said licence is being issued to the party separately.

[No. Suppl/NS/171/DGTD/AM'89/SLS/1375]

S. KUJUR, Dy. Chief Controller of Imports and Exports

विदेश मंत्रालय

नई दिल्ली, 26 अक्टूबर, 1988

का. भा. 3591:—राजनयिक और कौंसुली अधिकारी (शपथ और शुल्क) अधिनियम, 1948 (1948 का 41 वां) की धारा 2 के खंड (क) के अनुसरण में केन्द्रीय सरकार एनडू द्वारा भारत का राजदूतवास पोर्ट लुईस में सहायक के. एशोकन को 1987 से कौंसुली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[न. टी. 4330/1/88]

जी. जगन्नाथन, उपसचिव (कौंसुली)

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 26th October, 1988

S.O. 3592.—In pursuance of clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Shri K. Asokan in the HCI Port Louis to perform the duties of Consular Agent with immediate effect.

[No. T. 4330/1/88]

G. JAGANNATHAN, Dy. Secy. (Consular)

उद्योग मंत्रालय

(कम्पनी कार्य विभाग)

नई दिल्ली, 22 नवम्बर, 1988

का. भा. 3593:—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एनडू द्वारा स्वदेशी काटन मिल्स क. लि. जिसका पंजीकृत कार्यालय कमरा नं. 15, दूसरा तल, जय मार्केट, 55/55, जनरल गज, कानपुर के पंजीकरण के निरस्तीकरण को अधिसूचित करती है, क्योंकि उक्त उपक्रम ऐसे उपक्रमों में से है जिसपर उक्त अधिनियम के अध्याय-3 के भाग अध्याय के उपबन्ध अब लागू नहीं होते हैं। (पंजीकरण संख्या 708/71)

[सं. 16/12/88-म. III]

MINISTRY OF INDUSTRY

(Department of Company Affairs)

New Delhi, the 22nd November, 1988

S.O. 3593.—In pursuance of sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Swadeshi Cotton Mills Company Limited having its registered Office at Room No. 15, II Floor, Jai Market, 55/55, Generalganj, Kanpur the said undertaking being undertaking to which the provisions of Part A Chapter III of the said Act no longer apply. (Registration No. 706/71).

[No. 16/12/88-M III]

का. भा. 3594:—एकाधिकार तथा अवरोधक व्यापारिक व्यवहार अधिनियम, 1969 (1969 का 54) की धारा 26 की उपधारा (3) के अनुसरण में केन्द्रीय सरकार एनडू द्वारा हावड़ा मिल्स कम्पनी लिमिटेड, जिसका पंजीकृत कार्यालय 10, क्लाइव रो, कलकत्ता-700001 में है के पंजीकरण के निरस्तीकरण को अधिसूचित करती है, क्योंकि उक्त उपक्रम ऐसे उपक्रमों में से है जिन पर उक्त अधिनियम के भाग-क, अध्याय-3 के उपबन्ध अब लागू नहीं होते हैं। पंजीकरण संख्या 416/70।

[सं. 16/12/88-म. III]

एन. सी. गोयल, उपसचिव

S.O. 3594.—In pursuance of sub-section (3) of Section 26 of the Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969), the Central Government hereby notifies the cancellation of the registration of M/s. Howrah Mills Company Limited having its registered Office at 10, Clive Row, Calcutta-700001 the said undertaking being undertaking to which the provisions of Part A Chapter III of the said Act no longer apply. (Registration No. 416/70).

[No. 16/12/88-M. III]

L. C. GOYAL, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 25 नवम्बर, 1988

का. भा. 4595:—यतः पेट्रोलियम और खनिज पाईपलाइन भूमि में उपयोग के अधिकार का प्रश्न अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1385 तारीख 21-4-1988 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से भूतल अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाईपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और प्राप्ति, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय लिया है।

अतः, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एनडू द्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाईपलाइन बिछाने के प्रयोजन के लिए एनडू द्वारा अर्जित किया जाता है।

और प्राप्ति उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तैम और प्राकृतिक गैस आयात में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

गांधार से बुवारण तक पाईप लाईन बिछाने के लिए।

राज्य--गुजरात	जिला--खेडा		तालुका--बोरसद	
	सर्वे नं.	हेक्टर	बार	सेन्टीयर
गांव	2	3	4	5
1				
कटोक	482/1	0	24	80
	कार्ट ट्रेक	0	02	77

1	2	3	4	5
	481/2	0	06	82
	480/4-2	0	25	85
	480/3-2	0	35	26
	480/1	0	06	11
	479/3	0	09	10
	471/2	0	31	26
	469/5	0	15	86
	469/4	0	16	40
	469/3	0	09	45
	469/2	0	17	26
	468	0	06	48
	कोटार	0	10	40
	550	0	05	00
	465/3	0	18	00
	465/2	0	19	12
	451/2	0	00	27
	450/2	0	20	72
	449	0	17	70
	काठ देक	0	03	90
	410	0	34	55
	409/1	0	20	00
	377/2	0	01	28
	408	0	36	32
	378/1	0	00	56
	378/2	0	03	00
	378/3	0	07	03
	372	0	24	62
	379/2	0	09	49
	469/1	0	00	33
	379/1	0	01	32
	365	0	27	00
	364	0	28	20
	363	0	24	30
	106/1	0	36	02
	106/3	0	12	75
	106/2	0	03	60
	123/2	0	17	22
	123/1	0	20	40
	122	0	21	45
	121	0	20	62
	120	0	28	95
	119/1	0	03	42
	119/2	0	26	20
	118	0	33	95
	93	0	05	28
	94	0	21	50
	90/3	0	15	01
	90/2	0	07	15
	87	0	04	42
	89	0	31	00
	88/4	0	09	60
	88/3	0	04	80
	88/2	0	09	00
	88/1	0	02	07
	काठ देक	0	02	05

1	2	3	4	5
	68/1	0	01	19
	70	0	45	01
	69/1	0	25	92
	74	0	20	05
	75	0	10	22
	61	0	00	57
	60	0	20	72
	76/2	0	00	10
	77	0	00	15

[स. ओ.-11027/75/88/ओ.एन.ओ.ए.ए.-II]

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 25th November, 1988

S.O. 3595.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1385 dated 21-4-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

PIPELINE FROM GANDHAR TO DHUVARAN.

State : Gujarat District : Kheda Taluka : Borad

Village	Survey No.	Hec- tare	Ac- re	Cent- tiare
1	2	3	4	5
Kathol	482/1	0	24	90
	Cart track	0	02	77
	481/2	0	06	82
	480/4-2	0	25	85
	480/3-2	0	35	26
	480/1	0	06	11
	479/3	0	09	10
	471/2	0	31	26
	469/5	0	15	86
	469/4	0	16	40
	469/3	0	09	45
	469/2	0	17	26
	468	0	06	48

1	2	3	4	5
	Kotar	0	10	40
	550	0	02	00
	465/3	0	18	00
	465/2	0	19	12
	451/2	0	00	27
	450/2	0	20	72
	449	0	17	70
	Cart track	0	03	90
	410	0	34	55
	409/1	0	20	00
	377/2	0	01	28
	408	0	36	32
	378/1	0	00	56
	378/2	0	03	00
	378/3	0	07	03
	372	0	24	62
	379/2	0	09	49
	469/1	0	00	33
	379/1	0	01	32
	365	0	27	00
	364	0	28	20
	363	0	24	30
	106/1	0	36	02
	106/3	0	12	75
	106/2	0	03	60
	123/2	0	17	22
	123/1	0	20	40
	122	0	21	45
	121	0	20	62
	120	0	28	95
	119/1	0	03	42
	119/2	0	26	20
	118	0	33	95
	93	0	05	28
	94	0	21	50
	90/3	0	15	01
	90/2	0	07	15
	87	0	04	42
	89	0	31	00
	88/4	0	09	60
	88/3	0	04	80
	88/2	0	09	00
	88/1	0	02	07
	Cart track	0	02	05
	68/1	0	01	19
	70	0	45	01
	69/1	0	25	92
	74	0	29	50
	75	0	13	22
	61	0	02	57
	60	0	22	72
	76/2	0	05	10
	77	0	03	15

[No. O-11027/75/88-ONG-D III]

का. घा. 3596--यस: पेट्रोनियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1982 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोनियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. घा. सं. 1571 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उद्योगों के परिवार को/उपराजनों को बिछाने के लिए प्रविष्ट करने का प्रावधान घोषित कर दिया था।

और यतः सक्षम अधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार प्रविष्ट करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा प्रविष्ट किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तब और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

नोबं कक्षा की. टी. एफ. से सर्वेक्षण तक पाइप लाइन बिछाने के लिए।

राज्य--गुजरात	जिला--महेसाणा	तालुका--कडवा	गांव	सर्वेक्षण	हेक्टर	घार	सेन्टीमटर
1	2	3	4	5			
बनसर	1005	0	01	00			
	718	0	03	30			
	720	0	28	70			
	729	0	18	20			
	726	0	01	30			
	727	0	17	00			
	725	0	13	30			
	738	0	02	40			
	739	0	18	20			
	740	0	24	60			
	926	0	33	20			
	928	0	11	68			
	929/1	0	01	12			
	929	0	28	60			
	943	0	01	87			
	921	0	11	00			
	945	0	19	40			
	916	0	09	30			
	914	0	17	00			
	913	0	22	00			
	912	0	08	80			
	कार्ट ट्रैक	0	02	20			
	902	0	18	00			
	903	0	06	00			
	901	0	13	80			
	900	0	13	60			
	899	0	12	20			
	898	0	08	20			
	कार्ट ट्रैक	0	00	18			
	कार्ट ट्रैक	0	04	20			
	8	0	33	20			
	12	0	23	40			
	11	0	04	37			
	22	0	01	25			

1	2	3	4	5	1	2	3	4	5
	19	0	27	56		729	0	18	20
	124	0	07	00		726	0	01	30
	109/पी	0	25	80		727	0	17	00
	108	0	00	30		725	0	13	30
	110	0	09	90		738	0	02	40
	102	0	23	80		739	0	18	20
	99	0	18	80		740	0	24	60
	100	0	07	20		926	0	33	20
	95	0	15	20		928	0	11	68
	151/2/पी	0	06	60		929/1	0	01	12
	कार्ट ट्रैक	0	05	40		929	0	28	60
	182	0	13	00		943	0	01	87
	153	0	12	20		921	0	11	00
	155	0	26	10		945	0	19	40
	156	0	00	79		916	0	09	80
	157	0	20	40		914	0	17	00
	कार्ट ट्रैक	0	04	00		913	0	22	00
	167	0	27	80		912	0	08	80
	177	0	14	00		Cart track	0	02	20
	176	0	30	80		902	0	18	00
	181	0	00	70		903	0	06	00
	174	0	17	20		901	0	13	80
	173/1/पी	0	87	20		900	0	13	60
	कार्ट ट्रैक	0	06	40		899	0	12	20
						898	0	08	20
						Cart track	0	00	18
						Cart track	0	04	20
						8	0	33	20
						12	0	23	40
						11	0	04	37
						22	0	01	25
						19	0	27	56
						124	0	07	00
						109/P	0	25	80
						108	0	00	30
						110	0	09	90
						102	0	23	80
						99	0	18	80
						100	0	07	20
						95	0	15	20
						151/2/P	0	06	60
						Cart track	0	05	40
						152	0	13	00
						153	0	12	20
						155	0	26	10
						156	0	00	79
						157	0	20	40
						Cart track	0	04	00
						167	0	27	80
						177	0	14	00
						176	0	30	80
						181	0	00	70
						174	0	17	20
						173/1P	0	87	20
						Cart track	0	06	40

[सं. अं. 11027/96/88/ओ एन जी डी-III]

S.O. 3596.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1571 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

North Kadi CTF to Sarkhej Pipe Line

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec- tare	Ac- tare	Cent- tiare
1	2	3	4	5
Balasar	1005	0	01	00
	718	0	03	30
	720	0	28	70

[No. O-11027/96/88-ONG-D. III]

का. प्रा. 3597-—जब पेट्रोलियम और खनिज वाहकवाहन भूमि में उपयोग के अधिकार का प्रश्न अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस संश्लेषण की अधिसूचना का. प्रा. सं. 1563 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को वाहकवाहनों को बिछाने के लिए, अर्जित करने का अदला पावब घोषित कर दिया था।

और यतः संलग्न अधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और धार्य, जब केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के लिए इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिर्णय किया है।

अतः, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एनर्द्धाया घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार वाहकवाहन बिछाने के लिए एनर्द्धाया अर्जित किया जाता है।

और धार्य उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्णय देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तब और प्राकृतिक गैस संश्लेषण में, सभी कानूनों के मुक्त रूप में, घोषणा के प्रकाशन की तारीख को निहित होगा।

अनुसूची

जो एन ए आई में की एन ए आई में तब पाइप लाइन बिछाने के लिए।

राज्य—गुजरात

जिला और त. त. त. - मोहसा

गांव	सर्वे नं.	हेक्टर	आर	सेन्टीनर
1	2	3	4	5
मीठा	470	0	09	12
	474	0	04	08
	475	0	07	56
	477/3	0	08	88
	517	0	15	24
	489	0	01	80
	489	0	09	84
	490	0	08	76
	491	0	03	96
	497	0	08	52
	496	0	07	20
	495	0	01	20
	499	0	02	04
	501/1	0	15	72
	501/2	0	01	68
	579	0	04	68
	578	0	05	16
	576	0	07	20
	575	0	04	68
	571	0	09	36
	684	0	06	36
	684	0	05	88
	681	0	09	84
	671	0	14	28
	672	0	09	84

1	2	3	4	5
	668/1	0	15	48
	667	0	02	28
	34	0	05	28
	35/1	0	05	64
	35/2	0	05	76
	34	0	08	52
	26	0	06	00
	25	0	06	72
	24	0	03	36
	23	0	03	84
	21	0	01	80

[स. ओ. 11027/99/88/ओ एनजीसी-III]

S.O. 3597.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1563 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from JNAI to BLHJ.

State :	Gujarat	District & Taluka :	Mohsana		
Village	Survey No.	Hectare	Are	Centiare	
1	2	3	4	5	
Mitha	470	0	09	12	
	474	0	04	08	
	475	0	07	56	
	477/3	0	08	88	
	517	0	15	24	
	489	0	01	80	
	489	0	09	84	
	490	0	08	76	
	491	0	03	96	
	497	0	08	52	
	496	0	07	20	
	495	0	01	20	
	499	0	02	04	
	501/1	0	15	72	
	501/2	0	01	68	
	579	0	04	68	
	578	0	05	16	

1	2	3	4	5
	576	0	07	20
	575	0	04	63
	571	0	09	36
	684	0	06	36
	684	0	05	88
	681	0	09	84
	671	0	14	28
	672	0	09	84
	668/1	0	15	48
	667	0	02	28
	34	0	05	28
	35/1	0	05	64
	35/2	0	05	76
	34	0	08	52
	26	0	06	00
	25	0	06	72
	24	0	03	36
	23	0	03	84
	21	0	01	80

[No. O-11027/99/88/ONG D-III]

का. आ. 3598.—यत्. पेट्रोलियम और खनिज पाइप लाइन भूमि के उपयोग के अधिकार का अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 1572 तारीख 4-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना प्राण्य घोषित कर दिया था।

और यत्. सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और ध्याते, यत्. केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करते के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का आवश्यक किया है।

अब, यत्. उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदान शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और ध्याते, उस धारा की उपधारा (4) द्वारा प्रदान शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से और प्राकृतिक गैस शायो में, सभी शाखाओं ने मूल रूप में, घोषणा के प्रकाशन की तारीख को विहित होगा।

अनुसूची

नोबंकली सी. टी. एफ. से परम्प्रेज तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात	जिला : महेशणा	तापुका : कडी		
गांव	सर्वे न	हेक्टर	आर	सेन्टीयर
1	2	3	4	5
दरशमोखा	190	0	31	20
	198	0	28	60

1	3	4	5	6
	190	0	00	75
	195	0	27	80
	194	0	15	12
	197/ए	0	00	48
	223/2	0	10	80
	222	0	12	00
	225/1	0	16	50
	228	0	08	80
	230/सी-1	0	08	32
	230/सी-2	0	02	08
	231	0	09	50
	233	0	26	00
	234/सी	0	15	80
	252/सी	0	05	20
	235	0	03	75
	238/1	0	19	40
	238/2	0	14	18
	237	0	08	46
	239	0	01	76
	कर्टेडूक	0	06	85
	190/ए	0	00	80
	229	0	00	40

[नं. ओ. 11027/118/88 प्रो एन. जी. डी. III]

S.O. 3598.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1572 dated 4-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipe line from North Kadi to Sarkhej

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec- tare	Ac- re	Con- tains
Daran Morva	190	0	31	20
	188	0	28	60
	190	0	00	75
	195	0	27	80

1	2	3	4	5
	194	0	15	12
	197/A	0	00	48
	223/2	0	10	80
	222	0	12	00
	225/1	0	16	50
	228	0	08	80
	230/P-1	0	08	32
	230/P-2	0	02	08
	231	0	09	50
	233	0	26	00
	234/P	0	15	80
	252/P	0	05	20
	235	0	03	75
	238/1	0	10	40
	238/2	0	14	18
	237	0	08	46
	239	0	01	76
	Cart track	0	06	85
	190/A	0	00	80
	229	0	00	40

[No. O-11027/118/88/ONG-D-III]

का. भा. 3599 :—यतः पेट्रोसियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोसियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1636 तारीख 20-4-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइप-लाइनों को बिछाने के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दी है।

और भागे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और भागे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

नोर्वेजिकी सी. टी. एक. से सरखेज तक पाइपलाइन बिछाने के लिए।

राज्य :	गुजरात	जिला :	महेसाणा	तालुका :	कडी
गांव	सर्वे नं.	हेक्टर	आर	सेन्टीयर	
देवसला	857	0	00	38	
	865/1	0	13	80	
	864	0	10	08	

1	2	3	5	5
	866	0	34	30
	871/1	0	15	0 0
	871/2	0	17	00
	889	0	04	40
	894	0	10	40
	काटट्रेक	0	00	50
	895/पी	0	05	78
	895/पी	0	12	24
	890	0	05	20

[सं. भा. 11027/108/88 भा एन जी डी-III]

S.O. 3599.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1636 dated 20-4-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from North Kadi CTF to Sarkhej.

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec-tare	Are	Centiare
Deusana	857	0	00	38
	865/1	0	13	80
	864	0	10	06
	866	0	34	30
	871/1	0	15	00
	871/2	0	17	00
	889	0	04	40
	894	0	10	40
	Cart track	0	00	50
	895/P	0	05	76
	895/P	0	12	24
	890	0	05	20

[No. O-11027/108/88 ONG D-III]

का. भा. 3600:—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का धर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1561 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और ध्याते, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और ध्याते उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

नोर्थकडो सी. टी. एफ. से सरखेज तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात	जिला : महेसाणा	तालुका : कलोल			
ग्राम	सर्वे नं.	हेक्टर	घर	सेन्टीय	
वासजा डेडीया	94	0	04	90	
	93	0	01	00	
	95	0	22	60	
कार्टट्रेक		0	09	20	
	92	0	04	61	
	91	0	28	80	
	69	0	04	50	
	64	0	40	20	
	63	0	16	80	
	56	0	06	60	

[सं. भा. 11027/97/88-ओ. एन. जी. डी. III]

S.O. 3600.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1561 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from North Kadi CTF to Sarkhej.

State : Gujarat District : Mehsana Taluka : Kalol

Village	Block No.	Hec-tare	Are	Centi-Are
Vanajana Dhediya	94	0	04	90
	93	0	11	00
	95	0	22	60
Cart track		0	01	20
	92	0	34	61
	91	0	28	80
	68	0	04	50
	64	0	40	20
	63	0	16	80
	56	0	06	60

[No. O-11027/97/88-ONG D.III]

का. भा. 3601:—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का धर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1568 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और ध्याते, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और ध्याते उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

नोथकडी सी. टी. एफ. से सरखेज तक पाइपलाइन बिछाने के लिए

राज्य : गुजरात	जिला : महेसाणा	तालुका : कडी			
गाँव	सर्वे नं.	हेक्टर	घर	सेन्टीयर	
सुजातपुरा	काटट्रेक	0	06	80	
	158/1	0	23	80	
	158/2	0	12	00	
	123/1	0	12	50	
	123/2	0	10	00	
	133/3	0	17	60	
	76	0	14	20	
	70/1/ए	0	11	76	
	74	0	01	24	
	72	0	18	05	
	71	0	02	35	
	61/1	0	16	40	
	61/2	0	07	10	
	62	0	02	35	
	51/2	0	18	00	
	52/1	0	16	20	
	53/2	0	02	50	
	54	0	17	08	
	काटट्रेक	0	05	40	

[सं. मो.—11027/117/88-प्रो. एन. जी. डी. III]

S.O. 3601.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1568 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from North Kadi CTF to Sarkhej.

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hec.	Area	Centiare
Sujatpura	Cart track	0	06	80
	158/1	0	23	80
	158/2	0	12	00
	123/1	0	12	50
	123/2	0	10	00
	123/3	0	17	60
	76	0	14	20
	79/1/A	0	11	76
	74	0	01	24
	72	0	18	05
	71	0	02	35
	61/1	0	16	40
	61/2	0	07	10
	62	0	02	35
	51/2	0	18	00
	52/1	0	16	20
	53/2	0	02	50
	54	0	17	08
	Cart track	0	05	40

[No. O—11027/117/88-ONG D III]

का. भा. 3602 :—यतः पेट्रोलियम और नैचुरल गैस पाइपलाइन भूमि में उपयोग के अधिकार का अधिनियम 1962 (1962 का 50) को धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1555 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइन को बिछाने के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त अर्जित का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

प्रनुसूची				
नोर्थकडी सी. टी. एफ. ने सर्वेक्षण तक पाइपलाइन बिछाने के लिये।				
राज्य : गुजरात जिला : महेशाणा तालुका : कडी				
गांव	सर्वे नं.	हेक्टर	घार	सेन्टीयर
1	2	3	4	5
जालोरा	133	0	20	80
	139	0	14	00
	138	0	04	16
	136	0	09	61
	137	0	06	80
	142	0	12	00
	कार्टड्रेक	0	02	80
	175/1	0	01	92
	143	0	20	40
	149	0	19	80
	150	0	10	20
	148	0	00	05
	152	0	09	00
	151	0	10	20
	153/1	0	04	55
	153/2	0	02	61
	155/1 ए	0	05	00
	156	0	14	37
	157/1	0	01	17
	161	0	09	72
	कार्टड्रेक	0	05	20
	160	0	03	40
	304	0	00	63
	305	0	21	64
	325	0	04	59
	307	0	04	70
	324	0	10	40
	323	0	16	80
	341	0	08	00
	340/2	0	09	60
	339	0	13	25
	343	0	02	07
	344/1	0	11	60
	363	0	09	46
	362	0	00	54
	364/2/बी	0	11	00
	360	0	03	15
	359/1	0	11	78
	358	0	00	63
	357	0	09	23
	356 पी	0	13	80
	382	0	00	42
	कार्टड्रेक	0	03	00
	481/2	0	05	10
	481/3	0	04	00
	479/2	0	08	00
	479/1	0	02	32

1	2	3	4	5
	482	0	11	40
	478	0	01	00
	475	0	18	00
	406	0	17	20
	कार्टड्रेक	0	01	40
	397	0	06	40
	398	0	05	44
	471	0	01	10
	400/1	0	17	68
	401	0	03	52
	403/1	0	18	20
	403/2	0	05	20
	435	0	27	20
	433	0	20	90
	432	0	03	74
	431	0	14	80
	430	0	19	20
	426	0	03	52
	427/पी	0	38	12
	378	0	40	79
	577	0	00	98
	439	0	00	25
	426	0	03	52
	359/2	0	02	27

प्रो. 11027/124/88-प्रो. एन. जी. बी. III]

S.O. 3602.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1555 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from North Kadi CTF to Sarkhej				
State : Gujarat District : Mehsana Taluka : Kadi				
Village	Survey No.	Hec-tare	Area	Centiare
1	2	3	4	5
Zalora	133	0	20	80
	139	0	14	00
	138	0	04	16
	136	0	09	61
	137	0	06	80
	142	0	12	00
	Cart track	0	02	80
	175/1	0	01	92
	143	0	20	40
	149	0	19	80
	150	0	10	20
	148	0	00	05
	152	0	09	00
	151	0	10	20
	153/1	0	04	55
	153/2	0	02	61
	155/1A	0	05	00
	156	0	14	37
	157/1	0	01	17
	161	0	09	72
	Cart track	0	05	20
	160	0	03	40
	304	0	00	63
	305	0	21	64
	325	0	04	59
	307	0	04	70
	324	0	10	40
	323	0	16	80
	341	0	08	00
	340/2	0	09	60
	339	0	13	25
	343	0	02	07
	344/1	0	11	60
	363	0	09	46
	362	0	00	54
	364/2/B	0	11	00
	360	0	03	15
	359/1	0	11	78
	358	0	00	63
	357	0	09	23
	356/P	0	13	60
	382	0	00	42
	Cart track	0	03	00
	481/2	0	05	10
	481/3	0	04	00
	479/2	0	08	00
	479/1	0	02	32
	482	0	11	40
	478	0	01	00
	475	0	18	00
	406	0	17	20
	Cart track	0	01	40
	397	0	06	40
	398	0	05	44
	471	0	01	10
	400/1	0	17	68
	401	0	03	52
	403/1	0	18	20

1	2	3	4	5
	403/2	0	05	20
	435	0	27	20
	433	0	20	90
	432	0	03	74
	431	0	14	80
	430	0	19	20
	426	0	03	52
	427/P	0	38	12
	378	0	40	79
	577	0	00	98
	439	0	00	25
	426	0	03	52
	359/2	0	02	27

[No.O11027/124/88/ONGD.II]

का. भा. 3603 — यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1567 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना प्रावधान घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उन भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

नार्थकडी सी.टी.एफ. से सरखेज तक पाइपलाइन बिछाने के लिए

राज्य : गुजरात जिला : महेसाणा तालुका : कडी

गांव	सर्वे न.	हेक्टेर	घर	सेंटियर
बावल	1146	0	10	80
	1145	0	05	40
	1147	0	10	00
	1148	0	10	00
	1149	0	15	60
	1150	0	00	33
	1157	0	02	25
	1156	0	18	40
	1152	0	28	80
	1176	0	13	40

1	2	3	4	5
बावसु	1175	0	40	00
	1180	0	01	10
	1181/1	0	12	62
	1185	0	05	60
	1182	0	01	38
	1184	0	01	38
	1183	0	10	20
	1196	0	26	85
	1173	0	06	40

[सं. ओ. 11027/116/88/ओ एन वी सी-III]

S.O. 3603.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1567 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from North Kadi to Sarkhej

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hectare	Area Centiare
Bavlu	1146	0	10 80
	1145	0	05 40
	1147	0	10 00
	1148	0	10 00
	1149	0	15 60
	1150	0	00 33
	1157	0	02 25
	1156	0	18 40
	1152	0	28 80
	1176	0	13 40
	1173	0	40 00
	1180	0	01 10
	1181/1	0	12 62
	1185	0	05 60
	1182	0	01 38
	1184	0	01 38
	1183	0	10 20
	1196	0	26 85
	1173	0	06 40

का. भा. 3604.—यतः पेट्रोलियम और खनिज पाइप लाइन भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं. 1384 तारीख 21-4-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के लिए एतद्द्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेदन करती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से और प्राकृतिक गैस प्रायोग में, सभी बाधाओं से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

गोर्न कड़ी सी.टी.एफ. से सरखेज तक पाइप लाइन बिछाने के लिए।

राज्य—गुजरात	जिला—महेसाणा	तालुका—कर्म		
गांव	सर्वे न.	हेक्टर	भार	सेंटीयर
सूरज	766	0	20	35
	764	0	20	00
	765	0	04	40
	759	0	08	95
	757/पो	0	10	28
	758	0	06	75
	756/पो	0	07	40
	750/पो	0	09	40
	काटे ट्रेक	0	02	40
	721	0	29	30
	703	0	11	74
	730	0	10	87
	काटे ट्रेक	0	06	20
	570	0	20	60
	577	0	26	80
	584	0	13	62
	583	0	28	80
	596/1	0	05	82
	596/2	0	00	30
	592	0	16	80
	काटे ट्रेक	0	04	00
	598/1	0	44	41
	602	0	12	42
	614/पी	0	00	68

[सं. ओ. 11027/115/88/ओ एन वी सी-III]

1	2	3	4	5
सूरज	599	0	00	60
	608	0	43	24
	609	0	03	30
	610	0	14	42
	612	0	16	38

[सं. अ. 11027/79/88/ओ. एन. जी. डी. III]

S.O. 3604.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1384 dated 21-4-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

North Kadi CTF to Sarkhej Pipe Line

State : Gujarat District : Mehsana Taluka - Kadi

Village	Survey No.	Hectare	Area Centiare
Suraj	766	0	20 35
	764	0	20 00
	765	0	04 40
	739	0	08 95
	757/P	0	10 28
	758	0	06 75
	756/P	0	07 40
	756/P	0	09 40
	Cart Track	0	02 40
	721	0	28 30
	723	0	11 74
	730	0	10 87
	Cart Track	0	06 20
	570	0	20 60
	577	0	26 80
	584	0	18 62
	583	0	28 80
	596/1	0	05 82
	596/2	0	00 30
	592	0	16 80
	Cart Track	0	04 00
	598/1	0	44 41
	602	0	12 42
	614/P	0	00 68
	599	0	00 60
	608	0	43 24
	609	0	03 30
	610	0	14 42
	612	0	16 38

[No. O. 11027/79/88/ONGD.III]

का. प्रा. 3605.—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. प्रा. सं. 1570 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना साक्ष्य घोषित कर दिया था।

और यतः राजम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस प्रायोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

नोर्थकडी सी. टी. एन. से सरकेज तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात	जिला : मेहसाणा	तालुक़ा : कडो		
गांव	सर्वे नं.	हेक्टर	आर	सेंटोदर
भणिपुर	12	0	11	75
	कार्ट ट्रैक	0	03	40
	392/2	0	16	65
	392/1	0	01	35
	391/1	0	02	03
	391/2	0	09	37
	390/2	0	13	80
	387	0	07	40
	394	0	07	40
	386	0	39	20
	385	0	39	00
	383	0	00	24
	384	0	09	80
	कार्ट ट्रैक	0	02	40
	228	0	02	88
	229/1	0	30	20
	279/2	0	08	80
	278/2	0	15	20
	278/3	0	05	80
	कार्ट ट्रैक	0	04	40
	276	0	05	75
	277	0	03	75
	274/2	0	27	20
	273	0	22	60
	256	0	18	60
	255	0	24	60
	252	0	00	03
	257	0	00	48

[सं. ओ. 11027/79/88/ओ. एन. जी. डी. III]

के. विवेकानन्द, डेस्क अधिकारी

S.O. 3605.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1570 dated 3-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government ;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification ;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from North Kadi CTF to Sarkhej

State : Gujarat District : Mehsana Taluka : Kadi

Village	Survey No.	Hect- tare	Arca Cent-	Cent-
Manipur	12	0	11	75
	Cart track	0	03	40
	392/2	0	16	65
	392/1	0	01	35
	391/1	0	02	03
	391/2	0	09	37
	390/2	0	13	80
	387	0	07	40
	394	0	07	40
	386	0	39	20
	385	0	39	00
	383	0	00	24
	384	0	09	80
	Cart track	0	02	40
	228	0	02	88
	229/1	0	30	20
	279/2	0	08	80
	278/2	0	15	20
	278/3	0	05	80
	Cart track	0	04	40
	276	0	05	75
	277	0	03	75
	274/2	0	27	20
	273	0	22	60
	256	0	18	60
	255	0	24	60
	252	0	00	03
	257	0	00	48

[No. O.11027/91/88-ONGD.III]
K. VIVEKANAND, Desk Officer

ऊर्जा संचालन

(कोयला विभाग)

नई दिल्ली, 17 नवंबर, 1988

क्र. आ. : 3608—केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत सरकार के ऊर्जा संचालन (कोयला विभाग) की अधिसूचना सं. आ. 3539 तारीख 26 दिसंबर, 1987 द्वारा, उग अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र में 29.27 एकड़ (लगभग) या 11.84 हेक्टर (लगभग) मान की भूमि में कोयले का पूर्वेक्षण करने के प्रोत्साय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि में कोयला अधिप्राप्य है;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उपरोक्त संलग्न अनुसूची में वर्णित 29.27 एकड़ (लगभग) या 11.84 हेक्टर (लगभग) मान की भूमि का भर्जन करने के प्रोत्साय की सूचना देती है।

टिप्पण : 1. इस अधिसूचना के अंतर्गत प्राने वाले क्षेत्र के रेखांक सं. राजस्व 17/88 तारीख 16-6-88 का निरीक्षण उपायुक्त हजारीबाग के कार्यालय में या कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, फलकता-1 के कार्यालय में या सेंट्रल कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), परभंगा हाउस, रांची (बिहार) के कार्यालय में किया जा सकता है ?

टिप्पण : 2. कोयला धारक क्षेत्र (भर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उपबंधों की और ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं :—

“8.(1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने के तीस दिन के भीतर संपूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का भर्जन कि जाने वाले में आपत्ति कर सकता है।

स्पष्टीकरण—इस धारा के अन्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करनी चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में की जाएगी और सक्षम प्राधिकारी आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात और ऐसी प्रतिरिक्त जांच, यदि कोई हो, करने के पश्चात जो वह आवश्यक समझता है वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अतिरिक्त सहित विभिन्न रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होता है यदि भूमि या ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।”

टिप्पण : 3. केन्द्रीय सरकार ने कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, फलकता को उक्त अधिनियम के अधीन सक्षम प्राधिकारी नियुक्त किया है।

प्रस्तावना

प्लाट "डी" (दामोदर और नकरीरी नदी तल में)

पश्चिम करनपुरा कोयला क्षेत्र

जिला मुगारी बाग (बिहार)

(अर्जित की जाने वाली भूमि को दर्शाते हुए)

सभी अधिकार

क्र. सं.	ग्राम	धाना. धाना सं.	जिला	प्लॉट सं.	क्षेत्र	टिप्पणियाँ
1.	गिरी	मांडू	36	हजारीबाग	863	2.50 भाग
2.	सोदा	रामगढ़	24	"	4	6.20 "
3.	दिमोरिया	"	48	"	1	5.27 "
	बगरंगा				23	13.30 "
						कुल क्षेत्र 29.27 एकड़ (लगभग)
						या 11.84 हेक्टर (लगभग)

गिरी ग्राम में अर्जित किए जाने वाले प्लॉट सं.: 863 (भाग)

सोदा ग्राम में अर्जित किए जाने वाले प्लॉट सं.: 4 (भाग)

दिमोरिया बगरंगा ग्राम में अर्जित किए जाने वाले प्लॉट सं.

: 1 (भाग) और

23 (भाग)।

सीमा वर्णन :

क-ख रेखा ग्राम सोदा नकरीरी नदी में प्लॉट सं. 4 और दिमोरिया बगरंगा (नकरीरी नदी) में प्लॉट सं. 23 से होकर जाती है और बिंदु "ख" पर मिलती है।

ख-ग रेखा ग्राम दिमोरिया बगरंगा में नकरीरी नदी और दामोदर नदी के दाहिने किनारे के साथ-साथ जाती है और बिंदु "ग" पर मिलती है।

ग-घ रेखा, दामोदर नदी में से होकर जाती है। जो दिमोरिया बगरंगा की सामान्य सीमा बनाती है। और दामोदर नदी से होकर ग्राम गिरी के प्लॉट सं. 863 की दाहिनी सीमा से होकर जाती है और बिंदु "घ" पर मिलती है।

घ-ङ रेखा ग्राम गिरी में दामोदर नदी भाग बाएं किनारे के साथ-साथ जाती है।

ङ-च रेखा ग्राम गिरी के प्लॉट सं. 863 और दिमोरिया बगरंगा ग्राम के प्लॉट सं. 1 में दामोदर नदी में से होकर जाती है और बिंदु "च" पर मिलती है।

च-ज रेखा दामोदर नदी में से होकर जाती है (जो सोदा और दिमोरिया बगरंगा की सामान्य सीमा बनाती है) और बिंदु "ज" पर मिलती है।

ज-झ रेखा नकरीरी नदी की भाग केन्द्रीय रेखा के साथ-साथ जाती है (जो ग्राम सोदा और दिमोरिया बगरंगा की भाग सामान्य सीमा बनाती है) और बिंदु "झ" पर जाती है।

झ-ञ रेखा ग्राम सोदा में नकरीरी नदी में प्लॉट सं. 4 से होकर जाती है और बिंदु "ञ" पर मिलती है।

ञ-क रेखा ग्राम सोदा में नकरीरी नदी के भाग बाएं किनारे के साथ-साथ जाती है और आरेखिक बिंदु "क" पर मिलती है।

[सं. 43013/16/87-सी.ए/एन.एस.उपस्थ.]

डी. पी. राय, प्रवर सचिव

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 17th November, 1988

S.O. 3606.—Whereas by the notification of the Government of India in the Ministry of Energy (Department of Coal) No. S.O. 3539 dated the 26th December, 1987 under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to prospect for coal in 29.27 acres (approximately) or 11.84 hectares (approximately) of the land in the locality specified in the schedule appended to that notification;

And whereas the Central Government is satisfied that coal is obtainable of the said land;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 29.27 acres (approximately); or 11.84 hectares (approximately) described in the schedule appended hereto;

Note 1.—The plan No. Rev/17/88 dated the 16th June, 1988 of the area covered by the notification may be inspected in the Office of the Deputy Commissioner, Hazaribagh or in the Office of the Coal Controller, 1, Council House Street, Calcutta-1 or in the Office of the Central Coalfields Ltd. (Revenue Section), Darbhanga House, Ranchi (Bihar).

Note 2.—Attention is hereby invited to the provisions of section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), which provides as follows:—

"(1).—Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any right in or over such land.

Explanation.—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different report in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section a person shall be deemed to be interested in land which would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act."

Note 3.—The Coal Controller, 1, Council House Street Calcutta, has been appointed by the Central Government as the competent authority under the Act.

SCHEDULE

BLOCK—'D' (in Damodar and Nakari River Bed)

SOUTH KARANPURA COALFIELD

District Hazaribagh (Bihar)

All Rights

Showing land to be acquired)

Serial number	Village	Thana	Thana number	District	Plot number	Area	Remarks
1.	Gidi	Mandu	36	Hazaribagh	863	2.50	Part
2.	Saunda	Ramgarh	24	"	4	6.20	Part
3.	Deoria-Barganwa	"	48	"	1	5.27	Part
					23	15.30	Part
		Total area:-	29.27 acres (approximately)				
		or	11.84 hectares (approximately)				

Plot number to be acquired in village Gidi:- 863 (Part).

Plot number to be acquired in village Saunda:- 4 (Part).

Plot numbers to be acquired in village Deoria Barganwa:- 1 (Part) and 23 (Part).

BOUNDARY DESCRIPTION:-

A - B	line passes through plot number 4 in village Saunda (Nakari River), Plot number 23 in village Deoria-Barganwa (Nakari River) and meets at point 'B'.
B—C	line passes along right bank of Nakari River and Damodar River in village Deoria Barganwa and meets at point 'C'.
C -D	line passes through Damodar River (which forms common boundary with Deoria Barganwa and also through River Damodar (right boundary of plot number 863 of village Gidi and meets at point 'D'.
D—E	line passes along the part left bank of River Damodar in village Gidi.
E F G	lines pass through Damodar River plot number 863 of village Gidi and plot number 1 of Deoria-Barganwa and meet at point 'G'.
G H	line passes through Damodar River (which forms common boundary of villages Saunda and Deoria-Barganwa and meets at point.
H I	line passes along part central line of Nakari river which forms part common boundary of villages Saunda and Deoria Barganwa and meets point 'I'.
I J	line passes through plot number 4 (River Nakari) in village Saunda and meets at point 'J'.
J -A	line passes along the part left bank of Nakari River in village Saunda and meets at starting point 'A'.

[No. 43015/16/87—CA/LSW]

B.B. RAO, Under Secy.

बस्त्र मंत्रालय

(भारत उद्योग समिति)

बंबई, 26 सितम्बर, 1988

क्र.भा.3607.—बस्त्र उद्योग समिति अधिनियम, 1963 (1963 क्रमांक-41) की धारा 23 जो कि इसी अधिनियम की धारा 4, की उपधारा 2 के तर्ज (सी) (डी) एवं (ए) के साथ पठित है, के अर्थात् स्वयं को प्रदान की गई शक्तियों का प्रयोग करते हुए बस्त्र उद्योग समिति केन्द्रीय सरकार की पूर्वानुमति से पोलिएस्टर सूती एवं पोलिएस्टर बिस्कोस स्टीपिड बस्त्र जांच विनियमों 1971, में संशोधन हेतु निम्न विनियम बनाती है:—

1. (1) ये विनियम पोलिएस्टर सूती एवं पोलिएस्टर बिस्कोस स्टीपिड बस्त्र जांच (संशोधन) विनियम, 1988 कहलायेंगे।

(2) ये विनियम सरकारी राजपत्र में प्रकाशित होने के दिन से लागू माने जाएंगे:—

2. पोलिएस्टर-सूती एवं पोलिएस्टर बिस्कोस स्टीपिड बस्त्र जांच विनियम, 1971 में विनियम-2 में उपविनियम (बी) के बाद निम्न उपविनियम जोड़े जायें:—

“(बी) ‘‘माल’’ मीम्स मिलमेड/पावरलूम पोलिएस्टर सूती एवं पोलिएस्टर बिस्कोस स्टीपिड बस्त्र”

पाठ टिप्पणी:—मूल विनियम/आदेश जो कि भारत के राजपत्र खण्ड III के भाग 4 के पृष्ठ 2013 पर अधिसूचना क्र. एस.ओ. दिनांक जुलाई, 1971 दिनांक 21-8-1971 में प्रकाशित।

निम्नानुसार संशोधन किये गये हैं:—

1. अधिसूचना क्र. नई दिनांक 11-2-1972

2. अधिसूचना क्र. एस.ओ. 4770 दिनांक 12-10-85 जो भारत के राजपत्र में प्रकाशित खण्ड II के भाग 3(ii) पृष्ठ 5392 एवं 5393।

[क्रमांक-80/(18)/85-प्रशासन]

आर. के. कपूर, सदस्य सचिव

MINISTRY OF TEXTILES

(Textiles Committee)

Bombay, the 26th September, 1988

S.O. 3607.—In exercise of the powers conferred by section 23, read with clauses (c), (d) and (e) of sub section (2) of section 4, of the Textiles Committee Act, 1963, (41 of 1963), the Textiles Committee with the previous sanction of the Central Government, makes the following regulations to amend the Polyester-Cotton and Polyester-Viscose Blended Fabrics Inspection Regulations, 1971; namely:—

1. (1) These regulations may be called the Polyester-cotton and Polyester-Viscose Blended Fabrics Inspection (Amendment) Regulations, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Polyester-Cotton and Polyester-Viscose Blended Fabrics Inspection Regulations, 1971, for sub-regulation (d) of regulation 2, the following shall be substituted, namely:—

“(d) ‘Material’ means Millmade/Powerloom Polyester cotton and Polyester Viscose Blended Fabrics.”

Footnote:—

Principal Rules/Order published vide Notification No. S.O. dated July, 1971. Gazette of India dated 21-8-1971. Part III, Section 4 Page 2013;

Subsequently amended by:

(1) Notification No. Nil dated 11-2-1972.

(2) Notification No. S.O. 4770 dated 12-10-1985 published in the Gazette of India, Part I section 3(ii) Page No. 5392 and 5393.

[No. 80(18)/85-Adm.]

R. K. KAPOOR, Secy.

जल-मूल परिवहन मंत्रालय

(परिवहन पक्ष)

नई दिल्ली, 17 नवम्बर, 1988

क्र.भा.3608.—जबकि मद्रास स्टीवडोर्स संघ के प्रतिनिधि श्री ए. कमला शेखरन और श्री एम.एस. अरुण ने, जिन्हें मद्रास डक लैबर बोर्ड मंत्रालय (जल मूल परिवहन विभाग) भारत सरकार को अधिसूचना सं. क्र.भा. 68(ई) दिनांक 24 फरवरी, 1988 द्वारा मद्रास डक लैबर बोर्ड के सदस्य के रूप में नियुक्त किया गया था, त्याग पत्र दे दिया है।

2. अतः केन्द्रीय सरकार (रोजगार का विनियमन) गोबो अधिक नियमावली, 1962 के नियम 4 के उपविनियम (3) के अनुसरण में कथित रिक्तियों को अधिसूचित करती है।

[क्र.सं. एल बी-11013/20/88-यू एस(एल)]

सुदेश कुमार, प्रवर सचिव

MINISTRY OF SURFACE TRANSPORT

(Transport Wing)

New Delhi, the 17th November, 1988

S.O. 3608.—Whereas Shri A. Kamlasekaran and Shri M. S. Arun, representatives of Madras Stevedores' Association, appointed as members of the Madras Dock Labour Board by the notification of the Government of India in the erstwhile Ministry of Transport (Department of Surface Transport) (Transport Wing) No. S.O. 68(E), dated the 24th February, 1986, have resigned;

2. Now, therefore, in pursuance of sub-rule (3) of rule 4 of the Dock Workers (Regulation of Employment) Rules, 1962, the Central Government hereby notifies the said vacancies.

[F. No. LB-11013/20/88-US(L)]

SUDESH KUMAR, Under Secy.

मानव संसाधन विकास मंत्रालय

(युवा कार्यक्रम और खेल विभाग)

नई दिल्ली, 17 नवम्बर, 1988

क्र.भा.3609.—समय-समय पर संशोधित के अनुसार भारत के राजपत्र (असामान्य) भाग 2, खण्ड 3, उपखण्ड (ii) दिनांक 25 मार्च, 1982 में प्रकाशित शिक्षा तथा संस्कृति मंत्रालय को अधिसूचना एच.ओ. संख्या 166(ई) दिनांक 22 मार्च, 1982 के क्रम में, केन्द्रीय सरकार द्वारा पूर्ण अक्षय निधि अधिनियम, 1890 के खण्ड 4(1) के अन्तर्गत प्राप्त शक्तियों का प्रयोग करते हुए और शिक्षाद्वियों के लिए राष्ट्रीय कल्याण कोष के प्रशासन और प्रबन्ध के प्रयोजन के लिए केन्द्रीय उच्च शिक्षा कोष से एतद्वारा यह आदेश देती है कि 6 लाख रुपये (केवल छः लाख रुपये) की राशि भारत के पूर्व प्रजा निधि के कोषागार और निकाय के कार्यालय में उसके उत्तराधिकारी के पास उक्त राशि और

उससे प्रायः शाकबाने की समय जमा योजना में पांच वर्ष की अवधि के लिए जमा करने के लिए रहेगी।

[नि.सं. 13-36/88-खे-4]

रमेश कुमार, अधर सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Youth Affairs & Sports)

New Delhi, the 17th November, 1988

S.O. 3609.—In continuation of the Ministry of Education and Culture Notification S.O. No. 166(E) dated 22nd March, 1982 published in the Gazette of India (extraordinary) Part II Section 3, Sub-Section 3(ii) dated 25th March, 1982, as modified from time to time, the Central Government in exercise of the powers conferred under Section 4(1) of the Charitable Endowment Act, 1890 and with the concurrence of the General Committee for the purpose of Management and Administration of the National Welfare Fund for Sports—persons do hereby order that an amount of Rs. 6.00 lakhs (Rupees six lakhs only) be vested in the Treasurer of Charitable Endowments for India to be held by him and his successors in office upon trust to hold the said monies and the income thereof for a period of five years for deposit in the Post Office Time Deposit Scheme.

[No. F. 13—36/88-SP. 1V]

RAMESH KUMAR, Under Secy.

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 18 नवम्बर, 1988

का.प्रा.3610—स्थायी आदेश संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए भारतीय तार नियम, 1951 के नियम 434 के खण्ड iii के पैरा (1) (क) के अनुसार, दूरसंचार महानिदेशक ने मध्य प्रदेश दूरसंचार सचिवालय के पिपारिया, बंगांव, कुण्डलिकला, सिगोडि तथा उभेगांव टेलीफोन केन्द्रों और राजस्थान दूरसंचार सचिवालय के केकेडि टेलीफोन केन्द्र में दिनांक 01-12-1988 से प्रमाणित दर प्रणाली लागू करने का निर्णय किया है।

[संख्या-5-1/88-पी.एच.सी.]

पी.आर. कार्डा, सहायक महानिदेशक (पीएचसी)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

New Delhi, the 18th November, 1988.

S.O. 3610.—In pursuance of para (i) (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General, Department of Telecommunications, hereby specifies 01-12-1988 as the date on which the Measured Rate System will be introduced in Piparia, Bangaon, Kundalikala, Singodi and Ubhegaon Telephone Exchanges under Madhya Pradesh Telecom. Circle and Kakeri Telephone Exchange under Rajasthan Telecom. Circle.

P. R. KARDIA, Assistant Director General (PHB)

अभ्यसंभालय

नई दिल्ली, 21 नवम्बर, 1988

का.प्रा.3611—कर्नाटक राज्य सरकार ने कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खण्ड (घ) के अनुसरण

में श्री पी.एस.एस. शास्त्र के स्थान पर श्री आर. शंकरप्पा, सचिव कर्नाटक सरकार को कर्मचारी राज्य बीमा नियम में उस राज्य का प्रतिनिधित्व करने के लिए नामनिर्दिष्ट किया है;

अतः प्रत्येक केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसरण में, भारत सरकार के अभ्यसंभालय की अधिसूचना संख्या का.प्रा. 545(अ) दिनांक 25 जुलाई, 1985 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में, "(राज्य सरकार द्वारा धारा 4 के खण्ड (घ) के अधीन नामनिर्दिष्ट)" शीर्षक के नीचे मद 15 के सामने की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:—

श्री आर शंकरप्पा,

सचिव कर्नाटक सरकार,

समाज कल्याण एवं अभ्यसंभालय, बंगलूर।

[संख्या यू-16012/10/88-एस.एस.-I]

ए.के. भट्टारai, अध. सचिव

MINISTRY OF LABOUR

New Delhi, the 21st November, 1988

S.O. 3611.—Whereas the State Government of Karnataka has in pursuance of clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), nominated Shri R. Shankarappa Secretary to the Government of Karnataka to represent that State on the Employees' State Insurance Corporation in place of Shri P. S. S. Thomas;

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. No. 545(E), dated the 25th July, 1985, namely:—

In the said notification, under the heading "Nominated by the State Government under clause (d) of section 4" for the entry against Serial Number 15 the following entry shall be substituted, namely:—

Shri R. Shankarappa,

Secretary to the Govt. of Karnataka,

Social Welfare & Labour Department,

Bangalore.

[No. U-16012/10/88-SS. I]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 21 नवम्बर, 1988

का.प्रा.3612—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मेमर्स भारत कोलिंग कोल लि. का गसलीटांड कोलियरी के प्रबंधन में गम्भीर नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) बननाय के पंचाट को प्रकाशित करती है।

New Delhi, the 21st November, 1988

S.O. 3612.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (47 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1) Dhanbad, as shown in the Annexure in the industrial dispute between the employers in relation in the Gaslitand Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 66 of 1988

PARTIES :

Employers in relation to the management of Gaslitand Colliery

AND

Their workman.

APPEARANCE :

For the Employers—Sri P. Jha, Dy. Personnel Manager.

For the workman—None.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, dated the 13th October, 1988

AWARD

The present reference arises out of order No. L-20012/67/88-B. III(A), dated the 14th June, 1988 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

“Whether the demand of Janata Mazdoor Sangh that Smt. Sukumari Pradhan widow of late Sahdeva Pradhan, Ex-Quarry worker of Gaslitand Colliery be provided with employment is justified? If so, to what relief she is entitled?”

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement.

I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer
[No. L-20012/67/88-D. III(A)/D. IV(A)]

IV/PD/Settlement 7718

Dated 3-8-1988

MEMORANDUM OF SETTLEMENT ARRIVED AT
BETWEEN THE MANAGEMENT OF KATRAS AREA
WITH AREA SECRETARY, JANTA MAZDOOR SANGH
UNION ON 1-6-1988

Management Side:

1. Shri A. K. Srivastava,
General Manager,
Katras Area.
2. Shri R. Mohan,
Personnel Manager,
Katras Area.
3. Shri P. Jha,
Dy. Personnel Manager (IR),
Katras Area.

Union Side :

1. Shri Damodar Singh,
Area Secretary,
Janta Mazdoor Sangh.
2. Shri Sukumari Pradhan,
W/o Late Sahdeo Pradhan.

SHORT RECITAL OF THE CASE

Shri A. K. Jha, Secretary, J.M.S. vide his letter No. JMS/6/ALO/87/510 dated 24th/26th February, 1987 raised an ID before the ALC(C), Dhanbad and demanded that Smt. Sukumari Pradhan widow of Late Sahdeo Pradhan, Ex-Badli Q/Worker of Gaslitand Colliery should be provided employment as per provision of NCWA-III. He also contended that Sahdeo Pradhan was working as Q/Worker at Gaslitand Colliery and expired on 8th May, 1986 while he was in service.

After prolonged discussion it was agreed that Smt. Sukumari Pradhan, W/o Late Sahdeo Pradhan, ex-Badli Q/Worker of Gaslitand Colliery shall be provided employment as Casual Wagon Loader on the following terms :—

TERMS OF SETTLEMENT

- (a) That Smt. Kumari Pradhan, the dependent wife of the deceased workman named Sahdeo Pradhan, a Badli Q/Worker will be given employment as “casual” wagon loader after she reports for her duties alongwith the relevant certificates and documents mentioned hereinafter within 30 days from the date of this settlement.
- (b) That Smt. Sukumari Pradhan should be medically fit to work as casual wagon/loader. She shall be medically examined by the Area Medical Board and if found fit, she shall be provided employment as casual wagon loader.
- (c) That Smt. Sukumari Pradhan will submit the certificate from the Mukhia duly attested by the RDO of the local Area within whose jurisdiction her village is situated together with an affidavit indicating that she is the dependent wife of late Sahdeo Pradhan on whose behalf union has raised dispute.
- (d) That, she will submit a certificate from the Area Secretary of the union raising the present dispute certifying that she is the wife of late Sahdeo Pradhan on whose behalf the present dispute has been raised.
- (e) That, in case it is found that Smt. Sukumari Pradhan has made false declaration on the certificate regarding her identity, her services will stand terminated without giving her further notice.

That, in view of the above settlement there remains nothing to be adjudicated. This settlement resolves all the disputes in this case.

1. Damodar Singh,
Area Secretary,
Janta Mazdoor Sangh.
2. Sukumari Pradhan,
RTI of Sukumari Pradhan

Witnesses :—

1. Sd/- Illegible
2. Sd/- Illegible

For the Management.

1. A. K. Srivastava,
General Manager,
Katras Area.
2. R. Mohan,
Personnel Manager,
Katras Area.
3. P. Jha,
Dy. Personnel Manager (IR),
Katras Area.

का. प्र. 3613—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसूर भारत कोकिंग कोल लि. का भागाबन्द कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3613.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure

In the industrial dispute between the employees in relation to the Bhagaband Colliery of M/s. Bharat Coking Coal Limited.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 117 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Bhagaband Colliery of M/s. Bharat Coking Coal Limited and their workmen :

APPEARANCES :

On behalf of the workmen : Shri D. K. Verma, Advocate.

On behalf of employers : Shri B. N. Prasad, Advocate.

STATE : Bihar

INDUSTRY : Coal.

Dated, Dhanbad, the 27th October, 1988.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(298)/85-D.III (A), dated, the 14th April, 1987.

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management in Bhagaband Area of M/s. Bharat Coking Coal Limited should regularise in Cat. IV Shri Narandra Prasad, Survey apprentice is justified ? If so, to what relief is the said Survey Apprentice entitled ?"

In this case both the parties made their appearance and filed their respective W.S. documents etc. Thereafter the case proceeded along its course. Ultimately when the case was fixed for evidence both the parties appeared before me and filed a Joint compromise petition. I heard the parties in the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the Joint Compromise petition which forms part of the Award Annexure.

I. N. SINHA, Presiding Officer.

[No. L-20012(298)/86-D. III(A)/D IV(A)]

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL NO. 2 DHANBAD

Reference No. 117/87

PARTIES :

Employers in Relation to the Management of Bhagaband Area of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

Joint Compromise Petition of Employers & Workmen.

1. The abovementioned Employers and the workmen most respectfully beg to submit jointly that the above reference is pending before the Hon'ble Tribunal with following terms of reference :

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management in Bhagaband Area of M/s. Bharat Coking Coal Ltd. should regularise in Cat. IV Shri Narandra, Survey Apprentice is justified ? If so, to what relief is the survey apprentice entitled ?"

2. That the matter covered by the aforesaid reference has been jointly negotiated between the management and the workmen with a view to arriving at a mutually acceptable settlement in an amicable manner ;

3. That as a result of such negotiations the parties have agreed to settle the dispute on the following terms and conditions :—

(a) It is agreed that the workman namely Narendra Prasad will be given employment as a Trainee Helper in Cat. I with effect from 15th September, 1988 as a fresh candidate.

(b) It is further agreed that on completion of one year service in Cat. I he will be placed in Cat. II as a helper. Therefore he will grow in the normal channel according to his qualification, experience and cadre norms etc.

(c) It is further agreed that the appointment of Shri Narendra Kumar will be subject to his medical fitness and verification of his character and antecedents.

4. That the employers and the workman hereby confirm and declare that the aforesaid agreement is just, fair and reasonable to both the parties.

In view of the above the employers and the workman jointly pray that the Hon'ble Tribunal may be pleased to accept this joint compromise petition and dispose of the reference accordingly by giving an Award in terms thereof.

Sd/- Illegible

1. Office bearer of RCMS
Headquarters, Dhanbad.

2. Narendra Prasad,
workman concerned.

A. P. SINHA, General Manager, (PERSONNEL)

BCCL, DHANBAD.

For and on behalf of the
employers.

WITNESSES :

1. R. K. Mukherjee.

2. Rajindra Prasad.

Sd/- Illegible

Advocate for the workman.

Dated : 15-9-1988.

Sd/- Illegible

Advocate for the
employers.

नई दिल्ली, 18 नवम्बर, 1988

का.प्र. 3614—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, भारत कोकिंग कोल लि. बनेडोह कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद को पेशाद को प्रकाशित करती है।

New Delhi, the 18th November, 1988

S.O. 3614.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to

the Benedih Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947
Reference No. 9 of 1988

PARTIES:

Employers in relation to the management of Benedih Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen,

APPEARANCES:

For the Employers: Shri B. Joshi, Advocate.

For the Workmen: Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE: Bihar,

INDUSTRY: Coal.

Dated, the 20th September, 1988

AWARD

By Order No. L-20012(93)/82/D.III(A), dated, the 29th July, 1982, the Central Government in the Ministry of Labour, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to Central Government Industrial Tribunal No. 3, Dhanbad. Subsequently the reference has been transferred to this Tribunal vide Ministry's Order No. S-11025(7)/87-D.IV(B) dated 31st December, 1977/12th January, 1988. The schedule of the reference runs as follows:

"Whether the demand of the workmen of Benedih Colliery of Messrs. Bharat Coking Coal Limited, Post Office Nawagarh, Distt. Dhanbad for Category-IV wages to such of the Trammers as are employed by the management on additional jobs of Signelman/Looseman/Tripler Khalasi is justified? If so, how many and which of the Trammers are entitled to Category-IV wages and from what date?"

ANNEXURE

1. Bhuneshwar Sao
2. Harihar Rewani
3. J. Rewani.
4. Mungeshwar Dusadh.
5. Charitar Dosadh.
6. Jagdish Dosadh.
7. Balurchand Dusadh.
8. Gopi Bhuiyan.
9. Mangu Kahar.
10. Padum Rewani.
11. Kuldip Rewani.
12. Bhola Dosadh.
13. Sadagar Bhuiyan.
14. Pawan Mahato.
15. Sahadev Dosadh.
16. Sukhdeo Rewani.
17. Bijan Gope.
18. B. Singh.
19. Kisun Rewani.

20. Kameshwar Dosadli.
21. Kafeshwar Dosadh.
22. Chedi Sao.
23. Ramdeo Rewani.
24. Satyanarayan Sao.
25. Kagheshwar Mahato.
26. Teter Bhuiyan.
27. Bodi Mahato.
28. Manki Sao.
29. Bisundeo Dosadh.
30. Birmoni Bhar.
31. Jorai Kahar.
32. Gonori Rewani.
33. Karu Bhuiyan.
34. Gopal Rewani.
35. Buja Bhuiyan.
36. Pachu Rai.
37. Panchu Dosadh.
38. Surju Bhuiyan.
39. Sorai Dosadh.
40. Nageshwar Sao.
41. Latu Bhuiyan.
42. Karu Bhuiyan.
43. Chandra Dosadh.
44. S. Dusadh.
45. Sibsankar Dosadh.
46. Chandu Rajwar.

2. The case of the concerned workmen, as appearing from the written statement, submitted on their behalf by the Secretary, Bihar Colliery Kamgar Union, Dhanbad, details apart, is as follows:

Bhuneshwar Sao and 45 other concerned workmen have been working as time-rated Trammers in Benedih Colliery of M/s. B.C.C. Ltd. since long with unblemished record of service. At Benedih Colliery there are four inclines and besides the concerned workmen there are other piece-rated trammers in the colliery. Time-rated trammers work in a group of eight in each shift and six of them work in the underground and two of them on the surface. As per Central Coal Wage Board recommendations trammers are to push or to control the empty or loaded tubs and for doing this job time-rated trammers are placed in Category-III. The management had implemented Central Coal Wage Board Recommendations. But in addition to their jobs of trammers the concerned workmen have been performing the duties of signelman, clipman, looseman, tippler khalasi. The management has not appointed any separate set of workmen to perform the job of clipman, signelman, looseman and tippler khalasi. As per Central Coal Wage Board Recommendations signelman, clipman, looseman and tippler khalasi are placed in Category-IV. Although the concerned workmen are entitled to receive higher category i.e. Category-IV with effect from 1-5-72 for performing the duties of job of higher category, the management has been paying them wages available to Category-III workers. As per Central Coal Wage Board Recommendations the concerned workmen are entitled to Category-IV wages. S/Shri Gangu Mahato, Pasha Mahato, Sanichar Mahato and Ruplal Mahato of Madhuban Colliery are getting Category-IV wages for performing the same nature of job as the concerned workmen have been performing. Other time-rated trammers of M/s. B.C.C. Ltd. are also getting Category-IV wages for performing the same and similar nature of job. In the context of facts and circumstances the concerned workmen demanded Category IV wages with retrospective effect, but the management

refused to consider their legal demand as all of them are active members of Bihar Colliery Kamgar Union and the management is very much biased and prejudiced against the members of such union. Seeing no other alternative the union raised an industrial dispute before the Asstt. Labour Commissioner (C), Dhanbad. The management appeared before the ALC(C), Dhanbad and submitted a written comment. In the written comment the management's only defence was that the concerned workmen did not perform the job as mentioned in their petition. Due to adamant attitude of the management the conciliation proceeding ended in a failure. The appropriate Government, considering the merit of the case, has referred the dispute for adjudication. The action of the management in denying Category-IV wages to the concerned workmen is illegal, arbitrary and against the provisions of the Central Coal Wage Board Recommendations and also against the principle of natural justice. The action of the management in denying the concerned workmen Category-IV wages is discriminatory and denial of equal pay for equal work. In the circumstances the workmen have prayed that the reference be answered in their favour with consequential relief.

3. The case of the management of Benedih Colliery of M/s B.C.C. Ltd., as appearing from the written statement, is as follows :

The present reference is not legally maintainable: it is also vague and indefinite since the names of the workmen who are claiming themselves as signalman/clipman/looseman/tipler khalasi have not been mentioned. During the time of private management of coal mines the practice was to employ one trammer designated as signalman/clipman/looseman in each shift for performing the job of coupling, riding on an ascending as well as descending set of tubs and giving signals to the haulage khalasi to stop, start or run the haulage engine for hauling up loaded tubs and gliding down empty tubs along an inclined haulage place. Such a trammer used to get one category higher than what the other trammers used to get. Trammers were fixed in Category-III and the trammer designated as signalman/clipman/looseman used to get Category-IV wages. They are not only required to push or pull loaded or empty tubs, but also required to control the movement of tubs. Wherever tubs were required to be moved in sets, the trammers were required to couple the tubs and wherever tubs were required to be moved with the machines or mechanical appliances they were required to control the movement of tubs by giving signals. Thus, coupling and signalling were part and parcel of control required for movement of tubs. Similarly breaking is also essential for control of movement of tubs. Thus signalling and coupling were the duties of trammers for ensuring controlled movement of tubs. Riding on the sets of tubs exposes danger to the trammer and as a result the old practice of appointing a separate trammer to ride on the set of tubs to couple the tubs and to give signals while the tubs were in motion was discontinued. The trammers are required to control the movement of tubs from their own position and this necessitated increase in the strength of trammers to control the tub movement. Due to change in the system of control and operation of the tramming there is no post of signalman, looseman or clipman and no trammer can claim wages for those posts. Tippler khalasis are put in Category-III as per Central Coal Wage Board Recommendations. Since there is no tipler at Benedih colliery the question of any trammer claiming to work as tippler khalasi does not arise. It is alleged that the union has raised the present dispute due to certain confusion and in the circumstances the present reference be disposed of by passing an award holding that the demand of the union is illegal and unjustified.

4. In rejoinder to the written statement of the management the union has firmly stated that the present reference is maintainable and that it does not suffer from any vagueness or ambiguity. The union has further stated that it is absolutely false to state that the duty of coupler/signalman/clipman are to ride on an ascending or descending sets of tubs at the time of erstwhile employer. As a matter of fact the duty of looseman at the time of erstwhile owner was to travel with the ascending and descending sets of tubs, but that practice has been prohibited by the Director General of Mines Safety, Dhanbad. In spite of abolition of this practice the duties of loosemen have become onerous and difficult because it includ-

ed the duty to give signal and to alert other workman. The union has firmly denied that coupling and signalling are part and parcel of the jobs of trammers. It has been firmly asserted that the post of signalman/looseman/clipman still exist.

5. In the rejoinder to the written statement of the union the management has stated that there existed several ingresses and egresses to and from the mine through incline and the system is altered from time to time depending upon the mining condition. The duties of trammers are to push, pull and control the movement of tubs and for the purpose of control of movement a trammer has to use brake to give signal, couple, and uncouple before commencing and to operate safety appliance. Any un-skilled Category-I Mazdoor can push or pull a tub, but he cannot exercise control over movement of tubs. The trammers are put in Cat. III only because they control the movement of tubs and not for pushing and pulling the tubs only. The post of looseman/clipman/signalman does not exist after its prohibition by D.G.M.S. The essential requirement of the job of such workman was to ride on ascending and descending sets of tubs, to give signal and doing coupling and uncoupling of tubs etc., these duties are the duties of a trammer for which he gets Category-III wages. He used to get one category higher extra wages on assuming risk to his life by riding on ascending and descending sets of tubs. The moment his risk of life is removed he is merely a trammer entitled to get Category-III wages.

6. The management has admitted that there exists no signalman/looseman/clipman or tippler khalasi on its roll. It has been asserted by the management that in no colliery a trammer can be permitted to work as looseman/clipman/signalman, and trammers who were so designated before abolition of such posts are continued in the same category-IV with the same designation as because the management has no right to reduce their wages.

7. The union has examined two witnesses, namely, W.W. 1 Harihar Rewani and W.W. 2 Sibnandan Mahato and laid in evidence some documents which have been marked Exts. W-1 to W-1/1. On the other hand, the management has examined only one witness, namely, Sri S. S. Thakur, Agent of Benedih Colliery, as MW-1 and produced as evidence two documents which have been marked Exts. M-1 and M-2.

8. It is the irrefragable position that the concerned workmen have been working as time-rated trammer in Benedih colliery. The written statement of the union discloses this position emphatically and that has not been denied by the management in its written statement. Even MW-1 S. S. Thakur has had to admit that the concerned workmen are time-rated trammers.

9. Although the written statement of the union discloses the fact that there exists four inclines in Benedih colliery, W.W. 1 Harihar Rewani, one of the concerned workmen, has stated emphatically that there exists five incline mines in Benedih colliery. He has not been cross-examined on this point MW-1 S. S. Thakur Agent of Benedih colliery, has stated in his examination-in-chief that he was posted to Benedih colliery of M/s. B.C.C. Ltd. as Agent from 5-8-81 to 2-3-87 and that at the relevant time four inclines existed in mines. But in cross-examination he has admitted that there existed five inclines in Benedih colliery when he took over charge. His evidence does not disclose that any one of such five inclines has since been stopped working or functioning. That being so, I come to the conclusion that there existed atleast five inclines in Benedih Colliery when the present dispute was raised way back in 1982.

10. It appears from the evidence of W.W. 1 Harihar Rewani that Benedih colliery works in three shifts. This has not been disputed by MW-1 S. S. Thakur, the former Agent of the colliery. It has been emphatically stated in the written statement of the union that the time-rated trammers work in a group of eight in each shift, out of these trammers six work in the underground and two on the surface. In rejoinder to the written statement of the union the management has simply stated that the arrangement suggested may hold good sometime, but at other times, there is change in the number of trammers deployed underground and surface which depends upon the extent of working and work-load of the mine. But

the trammers work in a group of eight as asserted by the union has not been controverted by the management in its rejoinder. It appears that much controversy has been reflected in the pleadings of the parties arrived with respect to the duties of trammers vis-a-vis signalman/looseman/clipman. As per Central Coal Wage Board Recommendations workmen of the collieries have been classified into six following categories :

- (i) Category I—Unskilled.
- (ii) Category II—Semi-skilled lower.
- (iii) Category III—Semi-skilled higher.
- (iv) Category IV—Skilled (Junior).
- (v) Category V—Skilled—(Senior).
- (vi) Category VI—Highly skilled.

As per Central Coal Wage Board Recommendations time-rated trammers have been placed in Category III (semi-skilled higher) and clipman/pointsman/coupler/signalman/looseman have been placed in Category-IV (Skilled—Junior) with the following job description :

Designation : Job description :

Trammer (Time-rated) :

A trammer is a workman who with or without the assistance of other trammers pushes or controls the travel of, full and empty tubs.

Climpan/Pointsman/
Coupler/Signalman.

A workman who is engaged in coupling up the sets of trains of tubs in attending to the points of crossing which direct the travel of the tubs and in giving signals to the haulage khalasi.

Setrider/Setman/Loose-A workman who accompanies the set of train of tubs when it is being hauled and who signals to the haulage khalasi prior to the tubs being moved.

11. The case of the management is that the trammers are not only required to push or pull loaded/empty tubs, but are also required to control the movement of tubs and whenever the tubs were required to be moved in sets the trammers were required to couple the tubs and whenever the tubs were required to be moved with machines or mechanical appliances they were required to control the movement of tubs by giving signal and thus coupling and signalling are part and parcel of control required for movement of tubs. The further case of the management is that braking is essential for control of movement of tubs and wherever control of the movement of any vehicle is required, the trammer is required to give signals to apply brakes and to do all incidental matters. The written statement submitted by the management bears out this position. In the rejoinder the management has stuck to the position that the duties of trammers are to push pull and control the movement of tubs and for this purpose they are to use brake, to give signal to couple and uncouple before commencing movement and to operate safety appliances wherever necessary. Thus, it is obvious that the case of the management is that duties of the trammers are not only to push or pull empty/loaded tubs, but their duties are also to couple and uncouple the sets of trains of tubs, to use brake and to give signal and to operate safety appliances wherever necessary. MW-1 S. S. Thakur has stated that attaching of rope end of the haulage to the set of tubs

is the job of looseman, and that trammers control the movement of tubs by putting sprag and that they also put the sets of tubs upto 'golai' and then couplers attack the sets of tubs and give signal to the haulage-room and the process of movement starts after getting the signal in haulage-room. It is obvious from the job description as spelt out by the Central Coal Wage Board Recommendations that the job of the time-rated trammers who come under Category-III (Semi-skilled higher) is only to push or control the travel of full and empty tubs and it is not their job to couple up the sets of trains of tubs in attending to the points of crossing which direct the travel of tubs or to give signal to the haulage khalasi. These jobs are the job of clipman/pointsman/coupler/signalman and to some extent the job of set-rider, setman and looseman who come under Category-IV (Skilled junior). As per Central Coal Wage Board Recommendations the job description of Set-rider, Setman/Looseman is to couple the sets of trains of tubs when it is being hauled and to give signal to the haulage khalasi prior to the tubs being moved. Admittedly the practice of riding ascending and descending tubs has been abandoned under the direction of D.G.M.S. for reasons of safety after nationalisation of the coal industry. It has been stated by the management in the written statement that after discontinuance of this system of riding ascending and descending tubs the strength of trammers has been increased in order to control the tubs movement. However, the management has laid no evidence to establish the strength of increased strength of trammers in Benedih colliery after the system as aforesaid was discontinued. Nevertheless, it is the definite case of the management that due to the change in the system of control and operation of tramping there is no post of signalman/looseman/clipman in the colliery. The case of the management is also that there is no signalman/looseman/clipman/tippler khalasi on the roll of the colliery. Thus, it appears that the job of signalling or coupling at the haulage or attending to the points of crossing which direct the travel of tubs while the tubs are in motion which is essential has been targed to the work of trammers after increasing their number. WW-1 Harihar Rewani is one of the concerned workman. He has stated that he has been working as trammers in Benedih colliery since 1959 and that he knew all the concerned workmen and all of them have been working as trammers. He has further stated that as a trammer he pushes loaded or empty tubs on line both on the surface and on the underground, control the tubs fitted with wheels so that they may remain on the line. If any empty or loaded tub falls on the line he sets it on the line. According to him these are the duties of trammers and in addition to these duties they are working as Chainman/Looseman/Point man/Signalman and do tipping work too and that in their colliery none else has been appointed as Chainman/Looseman/Pointsman/Signalman or Tippler Khalasi. His evidence further discloses that there are five incline mines in the colliery and that the colliery works in three shifts and that all the concerned workmen work in all the three shifts and that all of them perform the jobs mentioned above jointly and separately. He has also stated that first they have to push tubs upto 'golai' and thereafter they change points, tie the chain and attach the tubs with haulage rope and thereafter they ring the bell and the process of haulage of tubs starts. He has emphatically stated that there exists another underground haulage between surface and golai and there the tubs are linked with haulage for carrying them up to the surface and the same process as stated above is followed here also. According to him no production can be carried on if they do not perform the job stated by him. It appears that MW-1 S. S. Thakur has denied in cross-examination that there exists any haulage between golai and surface. But when MW-1 S. S. Thakur has been examined he has not asserted that there does not exist another haulage in Benedih colliery between golai and surface. It appears that the concerned workmen, working as time-rated trammers have been burdened with works of clipman/pointsman/coupler/signalman and to some extent the duties of looseman.

12. Shri B. Joshi, Advocate, appearing for the management has contended that no person, other than a competent person or an official, has authority to give any signal and in support of his contention he has referred to the Coal Mine Regulation No. 87(4)(iii). The management has produced a list of signalman/coupler in Category-IV from

1-1-82 of the colliery (Ext. M-1) presumably in support of legal position taken by him as pointed out before. The management has also produced authorisation book (Ext. M-2). But it must not be forgotten that it is the definite case of the management that there exists no post of signalman/looseman/clipman in the colliery. If that be so, then it remains an open question why the list of signalman and coupler in Category-IV from 1-1-82 as submitted by the management could exist. Anyway, Ext. M-1 contains the names of 13 persons. Authorisation Book (Ext. M-2) also contains the names of these 13 persons. It appears that out of these 13 persons 8 are the concerned workmen. It appears that before the Conciliation Officer these two exhibits were not produced. This led Shri D. Mukherjee, Secretary of the sponsoring union to contend that these documents are manufactured documents. The evidence of MW-1 S. S. Thakur also introduces an element of infirmity with regard to the list of signalman and coupler (Ext. M-1) submitted by the management. Sri Thakur has stated that out of the concerned workmen (the number of the concerned workmen is 46) only 13 have been working as signalman and coupler since 1982 and they have been placed in Category-IV. The list submitted by the management relates to 1982, but it does not contain the names of 13 concerned workmen. It contains the names of only 8 of the concerned workmen. Thus, it is obvious that the evidence of MW-1 S. S. Thakur casts a reflection on the list submitted by the management (Ext. M-1) and consequently on authorisation book (Ext. M-2) too. Be that as it may, the fact remains that these documents are contra to the case of the management as pointed out by me before. I have also considered the evidence of MW-1 Harihar Rewani. W.W.2 Sibnandan Mahato has stated that he has been working as trammer in Madhuban colliery for the last 20 years and that it is their duty to push either empty or loaded tubs and that they control the movement of tubs. His evidence discloses that if any tub falls outside the line they put the same back on the line and they take the loaded tubs upto gola and there they connect the tubs with the loose of haulage and change the point and ring the bell to give the signal to the haulage khalasi. He has claimed that he has worked as looseman/pointman/signalman and that all the trammers of Madhuban colliery perform these jobs. According to him looseman is one who connects the tubs with haulage. He has asserted that they are getting Category-IV wages from 1-5-72. Madhuban colliery is one of the colliery under M/s. B.C.C. Ltd.; so is also the Benedih colliery. There is no evidence to indicate that the system of working and the job of time-rated trammers of Madhuban colliery are different from that of Benedih colliery. Such being the position it may be concluded that the same system of working procedure and job requirements are obtaining in both the collieries since it is under the same management of M/s. B.C.C. Ltd. From the evidence on record I come to the inescapable conclusion that all the 46 concerned trammers have been, in addition to their own work as trammers also performing the additional duties of higher responsibilities of pointman/coupler/signalman/looseman pertaining to Category-IV since nationalisation of the collieries and hence they are entitled to Category-IV wages, with effect from the date of nationalisation of the colliery on 1-5-1972 as claimed by them.

13. Accordingly, the following award is rendered—the demand of the workmen of Benedih colliery of M/s. B.C.C. Ltd. that 46 Trammers named in the Annexure to the schedule to the order of reference, who are at present placed in Category-III (Semi-skilled higher), should be paid Category-IV (Skilled Junior) wages for performing the duties of higher responsibilities pertaining to Category-IV in addition to their work as Trammers is justified and they are entitled to get Category-IV wages with effect from the date of nationalisation of the colliery on and from 1-5-1972 with all past arrears.

In the circumstances of the case, there will be no order as to cost.

S. K. MITRA, Presiding Officer

[No. L-20012(93)/82-D.III(A) D.IV(A)]

नई दिल्ली, 21 नवम्बर, 1988

का.प्र. 3615—औद्योगिक विवाद प्रधिनियम, 1947 (1947 का 14)
की धारा 17 के अन्वय में केन्द्रीय सरकार, मै. भारत कोकिंग कोल लि.
का जीजागोरा कोलियरी के प्रबंधन से सम्बन्धित नियोजकों और उनके

कर्मचारों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), धनबाद के पंचाट को प्रकाशित करती है।

New Delhi, the 21st November, 1988

S.O. 3615.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Jeenagora Colliery of M/s. Bharat Coking Coal Limited and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 18 of 1984

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Jeenagora Colliery Lodna Area of M/s. Bharat Coking Coal Ltd., P.O. Khas Jeenagora, District Dhanbad,

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S. Dhanbad.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 21st October, 1988

AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(44)/83-D. IV(B), dated the 24th May, 1984.

SCHEDULE

"Whether the demand of the workman of Jeenagora Colliery Lodna Area of M/s. BCCL, P.O. Khas Jeenagora Dhanbad that the date of appointment of Shri Anil Krishna Pal, Office Clerk should be recorded as 1st September, 1956 instead of 2nd December, 1970, is justified? If so, to what relief is the said workman entitled?"

The case of the workmen is that the concerned workman Shri Anil Krishna Pal, office clerk was a permanent employee of Jeenagora colliery since 1st September, 1956. After nationalisation of the said colliery the present management of BCCL prepared fresh Form B Register in which the date of appointment of the concerned workman has been wrongly noted as 2nd December, 1970 which has caused the present industrial dispute. When the matter was made known to the concerned workman he requested the management to rectify, the wrong entry of his date of appointment with correct date which is 1st September, 1956. The management did not rectify the wrong entry in Form B Register causing serious prejudices resulting in loss of seniority and promotional opportunities and also in respect of future benefits at the time of retirement in the form of gratuity etc. The concerned workman had worked continuously since 1956. On the above facts it has been submitted that the demand of the workmen is justified and the date of appointment of the concerned workman be corrected from 2nd December, 1970 to 1st September, 1956 with consequential effects.

The case of the management is that it is maintaining Form B Register under Section 48 of the Mines Act, 1952. According to the Form B Register the date of appointment

of the concerned workman is 2nd December, 1970. The entries in Form B Register have been duly authenticated by the concerned workman in token of acceptance of the correct recording of date contained therein. The management has also maintained identity card register containing all the particulars of the workman with photograph duly affixed. The workmen are supplied with identity cards which are true copies of identity card register. The concerned workman never protested regarding incorrect recording of his date of employment in the register. The demand of the workmen to correct the date of employment of the concerned workman after 12 years of nationalisation of the collieries is without any merit and is based on after thought. During the private management there were several collieries under different management and the workers used to leave the employment in one colliery and use to join in another colliery and in that case the workman becomes fresh employee after new appointment. Similarly a workman used to be taken in employment as the fresh recruit and his date of employment was accounted from the date he was freshly recruited. It was not possible for BCCL to trace out the detailed past history of each workman. The management is bound to preserve the condition of service as existing on the appointed day. As the date of appointment shown in the Form B Register of the erstwhile owner was 2nd December, 1970 the same date of appointment has been shown in Form B Register prepared by the present management. On the above facts it is submitted that the claim of the concerned workman that his date of appointment was 1st September, 1956 is without any basis and cannot be accepted and as such the concerned workman is entitled to no relief.

The only point for decision in this reference is whether the date of appointment of the concerned workman should be recorded as 1st September, 1956 instead of 2nd December, 1970.

The management examined one witness and produced three documents which have been marked Ext. M-1 to M-3. The workmen neither examined any witness nor produced any documents in support of their case.

MW-1 Shri R. N. Choubey is working as an Assistant in the personnel department. He has stated that he knows the concerned workman who has already retired. He has stated that the date of appointment of the concerned workman was recorded as 2nd December, 1970 in Form B Register. He has produced the photo copy of Form B Register which is marked Ext. M-1. The management has also produced the photo copy of identity card register which is marked Ext. M-2 in which also the date of appointment of the concerned workman is mentioned as 2nd December, 1970. The concerned workman had filed an application for gratuity and the said application has been marked as Ext. M-3 in this case. It will appear from the said application Ext. M-3 that the concerned workman has noted the date of his appointment as 2nd December, 1970 as per Form B Register. MW-1 has stated that the amount of gratuity was calculated on the basis of papers attached with his application Ext. M-3 and the amount so calculated has been accepted as gratuity by the concerned workman. MW-1 has asserted that the correct date of appointment of the concerned workman is 2nd December, 1970 which is noted on all the records. The cross-examination of MW-1 was declined by the workman's representative. Form B Register Ext. M-1 and identity card register Ext. M-2 show that the date of appointment of the concerned workman is 2nd December, 1970, which has been accepted by the concerned workman in his application Ext. M-3 which bears the signature of the concerned workman. There is no evidence on the record, on the contrary, to show that the concerned workman was appointed on 1st September, 1956. The evidence in favour of the management is one sided and there is nothing on the record to falsify or even present a case of doubt regarding the date of appointment of the concerned workman as 2nd December, 1970. There is no circumstance in the present case to hold otherwise. I hold, therefore that the date of appointment of the concerned workman was 2nd December, 1970 and that there is absolutely no material to hold that the date of appointment of the concerned workman was 1st September, 1956 or that he was continuously working in Jeenagora Colliery prior to 2nd December, 1970 since 1st September, 1956.

In the result, I hold that the demand of the workman of Jeenagora colliery of Lodna area of M/s. BCCL that the date of appointment of the concerned workman Shri Anil Krishna Pal should be recorded as 1st September, 1956 instead of 2nd December, 1970 is not justified and as such the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer

[No. L-24012(44)/93-D. IV(B)/D. IV(A)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली 24 नवम्बर, 1988

का.अ. 3616:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुवर्ण में केन्द्रीय सरकार, मैसर्स विश्णु सीमेंट लि. डोंडापाडू के प्रबन्धन में सम्बद्ध नियोजकों और उनके कर्म-कारों के बीच, अनुबन्ध में विनिश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-11-88 को प्राप्त हुआ था।

New Delhi, the 24th November, 1988.

S.O. 3616.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Vishnu Cement limited Dondapadu and their workmen, which was received by the Central Government on the 15-11-88.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, ANDHRA PRADESH, HYDERABAD

Dated 28th October, 1988

Industrial Dispute No. 69 of 1988

BETWEEN

The Workmen of Sri Vishnu Cement Limited, Dondapadu-508246, Taluk Kodad, Sithapuram P.O. Dist. Nalgonda, Andhra Pradesh.

AND

The Management of M/s. Sri Vishnu Cement Ltd., Dondapadu-508246, Taluk Kodad, Sithapuram, P.O. Taluk Kodad, District Nalgonda, Andhra Pradesh.

APPEARANCES :

Sri A. Krishnamurthy, and P. Nageswara Sree.

Representatives for the Management.
Workman not present.

AWARD

The Government of India, Ministry of Labour, New Delhi by its order No. L-29012/26/88-D.II(B), Dt. 26-7-1988 referred to this Tribunal at Hyderabad an Industrial Dispute existing between the employers in relation to the Management of M/s. Sri Vishnu Cement Limited, Dondapadu and their workmen in respect of the matters specified in the schedule here to annexed under section 10(1)(d) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) with a direction to submit the Award within a period of three months.

SCHEDULE

"Whether the action of the management of M/s. Sri Vishnu Cement Limited, Sithapuram P.O. Dondapadu-508246 Taluk Kodad, Dist. Nalgonda (A.P.) in dismissing Shri P. K. Viswendar Rao, Compressor Operator from service w.e.f. 11-10-1987 is justified? If not, to what relief the workman concerned is entitled?"

Soon after the receipt of the reference it was registered as Industrial Dispute No. 69 of 1988 on the file of this Tribunal and notices were issued to the parties with a direction to the workman to file his claim statement on or before 5-9-1988. Notices were served on parties. On 5-9-1988 parties were not present. Fresh notices were ordered to parties to appear on 14-10-1988. On 14-10-1988 when the case was called at the bench the notice sent to the workman was not served. Management was served. Sri A. Krishna Murty filed authorisation for the Management and reported that the matter was settled out of Court even before the reference. He did not show to the court the alleged receipt given by the worker and the dispute was adjourned to 28-10-1988 for production of the said receipt.

On 28-10-1988 the Management Advocate produced into Court the original receipt dt. 6-8-1988 which evidence that worker was paid Rs. 15,000 in full settlement of his claim with regard to dismissal.

This proves that matter was settled out of Court soon after the I.D. was referred to Court on 30-7-1988

Zorex copy of receipt is filed into court today.

Since the workman has settled the dispute out of Court and the receipt of the worker is filed, I hold that there is no further dispute between the parties. The reference is terminated.

Given under my hand and the seal of this Tribunal, this the 28th day of October, 1988.

INDUSTRIAL TRIBUNAL

Appendix of Evidence

NIL

[No. L-29012/26/88-D.III(B)]

का.अ. 3617:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण, में, केन्द्रीय सरकार म्पु बंगलौर पोर्टट्रस्ट के प्रबन्धन से सम्बन्ध वियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में विनिर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण, बंगलौर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-11-1988 को प्राप्त हुआ था।

S.O. 3617.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of New Mangalore Port Trust and their workmen, which was received by the Central Government on the 15-11-88.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated : 2nd November, 1988

Central Reference No. 127/87

I PARTY

M/s. Raju & 6 others,

by the General Secretary,
New Mangalore Port and Dock

Workers Union, NMPT Market,
Building, Penambur

II PARTY

Vs. The Chairman,
New Mangalore Port
Trust, Penambur,
Mangalore-10.

APPEARANCES :

For the I party Shri P. N. Murthy, Advocate.

For the II party Shri K. S. Bhat, Advocate.

AWARD

By exercising its powers under section 10(1)(d) and (2A) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-45012/25/86-D.IV(A) dated 18-8-19887.

POINT OF DISPUTE

"Whether the management of New Mangalore Port Trust is justified in refusing to employ M/s. Raju, s/o Kambulu, aged 20, (ii) Kaveri w/o Thimana, aged 30, (iii) M. Vasanthi w/o Kadasu, aged 23, (iv) Kumar s/o Vasu aged 20, (v) Yamuna d/o Dasu, aged 19, (iv) Seena and (vii) Baby d/o Kukgra aged 20, as sweepers w.e.f. October 1985? If not to what relief are the workmen entitled to?"

2. The first party union has then filed its claim statement and inter alia it is contended as follows :

The second party management was getting the work of Sweeping and Cleaning of the administrative office and other offices by the nine persons shown below.

1. Shri Raju—s/o Kambulu,—aged 20 yrs.
2. Vasanthi—d/o Attir—aged 20 yrs.
3. Smt. Kaveri—w/o Thoman—aged 30 yrs.
4. Smt. Vasanthi—w/o Dasu,—aged 23 yrs.
5. Kamar—S/o Vasu—aged 20 yrs.
6. Yamuna—d/o Dasam—aged 18 yrs.
7. Sheena No. 19, Girijans Colony, Near Urva Market, P.O. Ashokanagar, M'lore-575006.
8. Baby, d/o Nagura aged 20 years.
9. U. Ananda, D/No. 5-32, Kokical, M'lore-575006.

It is stated that one Purushothama was supplying these workmen for the said purpose to the second party. The exact date from which these workmen commenced their work is not clear to the first party, as the workmen did not get any record in this regard. However, they have been working in the port since, 28-9-84. They were paid Rs. 7.00 per day, till October 1985. Then the management refused them work and employed some other workers on NMR basis. These workmen are Harijans or Girijans. They have worked even on weekly holidays and have put in more than 240 days of attendance. The second party has no licence under the contract Labour Act for obtaining these workmen on contract basis. The said Purushotham has no licence. Hence, they are the workmen of the second party. The said Purushotham had no right to terminate their services. The alleged action of Purushotham is illegal. A dispute was raised before the Assistant Labour Commissioner. The management took up a stand that these workers belonged to the said contractor, to whom they had entrusted the work of sweeping and cleaning and that they are not responsible for refusing them work. The said stand is untenable. During the conciliation proceedings, the management has given employment to two of them, namely Vasanthi and Ananda. All the workmen had registered their names in the office of the employment exchange. The second party is not justified in refusing them work. Hence it is prayed that they may be directed to be reinstated with all the consequential benefits.

3. The second party has filed its counter statement and inter alia it is contended as follows :

The nine workers, named in the reference were not their workmen. The dispute is not maintainable. The second party called for tenders for day to day maintenance work of the administration office building and

it's annexe, for the period from 1-10-84 to 30-9-85. In response to the said notice several tenders had been received, including the one of Purushotham. His tender was accepted. He entered into an agreement on 16-11-84, and agreed to execute the work between 1-10-84 and 30-9-85, for Rs. 48,982. It was the duty of the said Purushotham to engage his own labourers for the said work. The second party is not concerned and nor was it aware as to how many workers were employed by him, for executing of the said work and whether these workers were ever employed by him. It is given to understand that none of the workers was regularly attending for the said work. The said Purushotham used to have some other works also, and it appears that he used to deploy some of the workers, for different works. At no point of time these workers claimed that they were the workers of the port trust. The said Purushotham, used to pay the wages of his workers. After the contract came to an end on 30-9-85 it was not renewed. The second party has employed regular employees for the said purpose and there is no vacancy for the said work. The second party bound by the recruitment rules and the roster system of reservation. They cannot regularise in violation of the rules and regulations. It is not correct that the second party was getting the work of sweeping and cleaning done from these workers. It is not aware of the date or period of engagement of any of these nine workers by Purushotham. It is denied that they were working ever since 29-9-84. The second party is not aware whether they were paid only Rs. 7.00 per day, till October 1985. It is not correct that they made a demand and management refused to employ them. The work of cleaning is only a part time job, it is not admitted that they are Harijans and Girijans. It is not admitted that they have worked even on weekly holidays and have put in more than 240 days of work. The second party has registered itself under the Contract Labour Act. It is not admitted that the said Purushotham has no licence under the said Act. It is denied that Purushotham had no right or power to terminate their services. It was not obligatory on the part of Purushotham to obtain any licence. In the absence of the said Purushotham, being made a party, the said question cannot be decided in this reference. The said Vasanthi and Ananda are employed through the employment exchange and on merits and not because they were the workers under Purushotham. It is denied that all these workers had registered their names with employment exchange. They cannot seek for any relief. The reference may be rejected.

4. The second party management has then examined one witness and has got marked Exs. M-1 to M-5.

5. The first party union has examined one witness.

6. The second party management then got file No. 73/85 of the Assistant Labour Commissioner, Mangalore and it is marked as Ex. M-6.

7. The parties have been heard.

8. My finding on the point of reference is as follows.

The first party workman have not proved that there was employee-employer relationship between themselves and the second party. They are not entitled to any relief, from the second party.

REASONS

9. In the counter statement filed by the second party it has been contended in para 1 that the 9 workers shown in the claim statement were not the workmen of the second party at any time. It is an admitted fact that the work of sweeping and cleaning etc. of the administrative building and its annexe was given to a contractor by name Sri Purushotham. The second party has put forth a case that the said Purushotham had entered into an agreement on 16th November, 1984 for executing the said work from 1st October, 1984 to 30th September, 1985, for a sum of Rs. 48,982. The agreement and connected papers have been filed by the second party at Ex. M-4. In the special conditions shown in the agreement it has been stated that the work should be carried out from 7.00 a.m. to 9.30 a.m., 1 p.m. to 2 p.m. and after 5 p.m. so that no interference is caused for the functioning of the office located in the building.

It has been also stated that the workers employed for the said work by the contractor will have no claim for any employment in the port trust and that the contractor should safeguard the interest of his workers under the relevant contract labour laws. In the schedule enclosed to the agreement it has been further stated that the sweeping and cleaning etc. should be done to the entire satisfaction of the Engineer-in-charge and the port authorities. In order to prove that there was no employer-employee relationship between them, the second party has examined MW-1, the then executive Engineer by name Sri Bharatan Menon. He has sworn that in the year 1984-85 the second party had given the contract of sweeping and cleaning of the administrative building and its annexe to one Purushotham and that the said Purushotham had entered into an agreement with the second party. In para 5 of his evidence he further states that the contractor had to engage his own workers for the said work. In para 7 he adds that it was a work of only two hours. His evidence further discloses in para 8 that the second party is not aware as to who were the workers employed by the contractor for the said work. It is one of the contentions of the first party union that the second party was not registered under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, and that the engagement of these nine workers for the work of the port shall have to be considered as the engagement by the second party. Ex. M-6 is a return sent by the second party to the registering officer under the said Act. The name of Sri Purushotham is shown at Sl. No. 49 and the period of contract is shown as 1-10-84 to 1-10-85. The work described is that of day-to-day maintenance of the administrative office building. The contention that the second party was not registered for the relevant period holds no water. It was argued for the first party that the said contractor, Purushotham had not obtained any licence under the provisions of the said Act and therefore the second party management cannot disown its responsibility. It is not the case of the first party that the work given under the contract Ex. M-4, involved 20 or more workers or that the said contractor Purushotham had ever engaged twenty or more workers for the said work. Section 1(4)(b) of the said Act states that the Act applies only to contractors who employed twenty or more workmen. It is thus apparent that the said contractor did not require any licence for engaging nine workmen for the said work. The learned representative for the first party then contended that in 1976 itself the Government had prohibited engagement of contract labour for the work of sweeping and cleaning etc. and thus the said agreement is void. Ex. M-1 is the inspection report of the labour officer. It shows that contract labourers numbering eight were employed for the work of sweeping and cleaning etc. although it had been prohibited by the Central Government by notification No. 179(E) dated 9-12-76. Under section 21 of the Indian Contract Act, such a contract is not voidable because it was caused by a mistake as to any law in force.

10. The first party has examined the General Secretary of the Union, WW-1 Rajendran Nair. The evidence of WW-1 Rajendran Nair is on the point that these workman have worked for the second party for more than one year and one Junior Engineer of the second party was supervising their work, and that they were full time workmen. In my opinion, merely because the work of sweeping and cleaning was examined by one junior engineer to know whether the work had been done satisfactorily or not, it does not imply that these workers were working directly under the control and supervision of the management of the second party. In para 39 of his evidence it is suggested to WW-1 Nair that the Junior Engineer was asked to see only whether the contractor Purushotham had carried out the work according to the agreement or not. The witness has denied the suggestion. The said suggestion is supported by the terms and conditions of the agreement produced at Ex. M-4. The first party union has not examined the said contractor Purushotham. No Workman has been examined to show that all these nine workers shown in the claim statement have worked under the direct control and supervision of the second party. In order to establish employee-employer relationship, the first party was required to prove that these seven workers shown in the order of reference have worked under the direct supervision and control of the second party management. No record maintained by the said Purushotham has been called for. It is not the case of the first party union that the

second party port trust has ever paid any wages to any of these workers. In para 23 of his evidence WW-1 Rajendran Nair admits that the said Purushotham had asked them to go for work to the second party and it was Purushotham who used to pay them their wages. In para 24 he further admits that the second party NMP had called for tenders in 1984, and the work of sweeping and cleaning of their buildings had been entrusted to the said contractor Purushotham. He also concedes that after the period of contract it has not been renewed. All these admissions indicate that the second party did not engage them, nor controlled nor supervised their work, nor paid them their wages. In para 27 of his evidence WW-1 Nair states that he does not know whether as per the agreement between the second party and the said Purushotham the work of sweeping etc. had to be done before office working hours, during intervals and after office hours. Though he asserts that these workers were working for the whole day, it is conceded by him that he himself works in the wharf which about one kilometer away from the administrative building and his working hours are from 6 a.m. to 2 p.m. His evidence that these seven workers were working for the whole day cannot therefore be accepted, since he used to remain engaged himself between 6 a.m. to 2 p.m. every day. The first party has not proved that these seven workers were full time workers.

11. The learned representative for the first party contended that they had worked for more than 240 days in a year and termination of their services without any notice or payment of retrenchment compensation is illegal and that they shall have to be deemed to be the workmen of the second party. In para 5 of his evidence WW-1 Nair has stated that these workers have worked in the second party for more than one year. In para 7 he adds that the concerned Junior Engineer stopped them from attending to their working October 1985. In para eight he further explains that these workers then approached him, with a complaint they had been stopped from and that they were not paid proper wages. His evidence further discloses that he then told the said Junior Engineer that they should be given work and proper wages, but he told him to approach the said Purushotham and Purushotham in-turn told him that all the wages had been paid and he cannot give them work because New Mangalore Port Trust had not renewed his contract. WW-1 Nair further states that Purushotham was paying the wages of Rs. 7/- to a female worker and Rs. 10/- to a male worker, whereas he had to pay to Rs. 10.50 paise to each of them and therefore he took up the matter to the Assistant Labour Commissioner, Mangalore. In para 11 of his evidence WW-1 Nair further states that the Assistant Labour Commissioner has settled the matter of wages. In the course of the proceedings before the Regional Labour Commissioner on the application by Assistant Labour Commissioner, it appears that WW-1 had sent the attendance register of these workers. The evidence of WW-1 Nair indicates that as per the entries made in the said register, workers numbering two had worked for 310 days and others had worked for more than 310 days. There is no dispute on the point that the first party union had raised a dispute regarding their wages. The case file of 47/73/85-B II before the Regional Labour Commissioner, Bangalore shows that the Assistant Labour Commissioner, Mangalore had filed the said application before the Regional Labour Commissioner contending that the contractor B, Purushotham had paid less than the minimum rate of wages for the period from 1-4-85 to 29-7-85, and that order may be passed for the payment of difference and compensation. In annexure A to the said application he has shown these seven workers described in the order of reference and five others shown at sl. Nos. (2) Kalyani (3) Kayashree (5) M. Vasanthi Das, (8) Shashi and (10) Sunder. In Annexure A to his application he has stated that each of them has worked for 99 days between 1-4-85 and 29-7-85 and that the contractor was liable to pay difference of wages of Rs. 2, 277/-. In the said proceeding M. Vasanthi w/o K. Dasu had been examined on behalf of the workmen. The order passed by the authority under the Minimum wages Act, namely, the Regional Labour Commissioner is at page 72 of the file Ex. M-5. Para 3 of the order shows that for period from 1-4-85 to 29-7-85 these workers had not been paid proper wages, and it was found that the contractor had subsequently paid the difference in wages, and in view of the said payment, the Regional Labour Commissioner allowed only compensation of Rs. 400/- to the report of the labour officer. It shows that contract labourers

12 workers shown therein. The file of the Regional Labour Commissioner, Ex. M-5 does not support the contention of the first party that these 7 workers shown in the order of reference had put in 240 days of work in 1984 to 1985. The management admits that Vasanthi and Annanda have been appointed on regular basis because their names were sponsored by the employment exchange. The first party has not adduced any evidence in order to support its case that Vasanthi and Annanda had been appointed because they had put in 240 days of the work in the year 1984-85.

12. The management has produced the annual return filed under rule 82(2) by it for the year ending on 31-12-86. Ex. M-3 has been produced to show that the management had sought for the names of candidates for the work of Safaiwala to be appointed on NMR basis in the port. The order dated 1-7-86 of the executive engineer in the file Ex. M-3 discloses that 10 persons had been selected. The document in the file of Ex. M-3 thus support the contention of the second party that there is no nexus between the appointment of Vasanthi and Annanda on the one hand and some workers having put in work for some days in the second party in the year 1984-85 as the workers of the Contractor Purushotham, on the other.

13. Supposing for the purpose of discussion that the engagement of 9 workers by the contractor Purushotham for sweeping and cleaning was totally void being in contravention of section 23 of the Contract Act for the reason that the second party could not have engaged contract labourers contrary to the Central Government notification 179 (e) dated 9-12-76, it is not explained as to how these seven workers can rightly claim to be the workmen of the second party when they have not established employee-employer relationship between themselves and the second party. Supposing for a while that there was any such relationship, they have not put forth, satisfactory evidence to prove that they had put in 240 days of work in the year 1984-85 and that the action of the second party in not giving them work subsequently contravenes the provisions of section 25F read with section 2(OO) of the I.D. Act.

14. The learned counsel for the first party cited the case of Punjab National Bank Ltd. Vs. All India Punjab National Bank Employees Federation (AIR 1960 Supreme Court page 160). The authority is on the point that if there is wrongful dismissal, the normal rule is reinstatement. The foregoing discussion makes it clear that the first party has not established employee-employer relationship nor violation of section 25F of the I.D. Act and that the workers cannot claim any relief from the second party.

15. The learned representative for the first party then referred to the case of Food Corporation of India loading and unloading workers union vs. Food Corporation of India (1986 Karnataka Law Journal page 2579). The authority is on the point that, in the absence of the certificate of registration by the employer, employment of workmen of the contractor is not valid and that the workmen can prefer a claim against the principle employer. On the part of the management the returns filed by them and other documents at Exs. M-2 and M-6 prove that there was valid registrations for the relevant period. The case put forth by the first party has been examined even in the context that the agreement between the second party and Purushotham at Ex. M-4 was void. The evidence placed before me does not prove that the second party has contravened any provision of law, which should necessarily result in an award of reinstatement and full back wages in favour of seven workers of the first party.

16. On the other hand, the learned counsel for the second party cited the case of Swapandas Gupta and others Vs. the first labour court of West Bengal and others (1976 Lab. I.C. page 202). The authority states that when a workman asserts that he was the workman of the company, and if it is denied by the company, it is for the workman to prove that he was the workman of the second party company. The facts and circumstances of the case show that the first party union has not established that the seven workers shown in the order of reference wherever the workman of the second party.

17. The learned counsel for the second party then brought to my notice the principle laid down in the authority of P. Karunakaran Vs. Chief Commercial Superintendent (1988 LAB I.C. page 1346). In the context of the facts and circumstances shown in the reorted case it has been held therein that workers cannot claim absorption in service of the railway, for the reason that they had been employed by the private labour contractor, holding the licence to run a refreshment room at the railway station.

18. The learned counsel for the second party then cited the case of Mangalore University non-teaching employees association Vs. Mangalore University (W.P. Nos. 8349/88 dated 10th June, 88) page 2219. The authority shows that continuation of temporary appointees does not confer any right and the same cannot be permitted to defeat the provisions of articles 14 and 16 of the constitution of India and that substitution of the method of recruitment to permanent post and vacancies by regularisation of temporary appointees will be in violation of articles 14 and 16. In view of the principles laid down in the aforesaid two authorities, I find that seven workers shown in the order of reference cannot claim any relief.

19. In the result, an award is passed to the effect that the seven workers shown in the order of reference have not proved that there was employee-employer relationship between themselves and the second party. They have not proved that the management of New Mangalore Port Trust had any occasion to refuse them to employ. They are not entitled to any relief.

(Dictated to the personal assistant taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

[No. L-45012/25/86-D.IV(A)/III(B)]

का.सं. 3618 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण, में, केन्द्रीय सरकार विशाखापट्टनम पोर्ट ट्रस्ट, विशाखापट्टनम के प्रबन्धन से सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में विनिर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के संक्षेप को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-11-1988 को प्राप्त हुआ था।

S.O. 3618.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust, Visakhapatnam and their workmen, which was received by the Central Government on the 15th November, 1988.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

Dated 13th October, 1988

Industrial Dispute No. 23 of 1987.

BETWEEN :

Workmen of Visakhapatnam Port Trust, Visakhapatnam.

AND

Management of Visakhapatnam Port Trust, Visakhapatnam.

APPEARANCES :

Shri K. Balakrishna, Senior Lab. Technician, Medical Department, Visakhapatnam Port Trust for workmen.

M/s. K. Srinivasa Murthy, A. Visalakshmi, M. Kalyani and G. Sudha, Advocates for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-34012/6/86-D. IV(A) dated 1st May, 1987 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employer in relation to the management of Visakhapatnam Port Trust and their Workmen to this Tribunal for adjudication :

"Whether the action of the management of Visakhapatnam Port Trust in conducting selection on 3-1-1985 for the post of I.O.W. Grade II and also in placing Shri G. Babu Rao, Overseer as No. 2 in the said selection overlooking his claim of working as I.O.W. Grade II during the period from 11-6-81 to 3-1-1985 with interruptions and also without giving any cognizance to his No. 1 position in the selection dated 31-3-1981 is justified ?

If not, to what relief is the workman concerned entitled ?"

The reference is registered as Industrial Dispute No. 23 of 1987 and notices were issued to the parties.

2. The claim statement filed by the National Port Trust Employees Union. On behalf of the worker Sri G. Babu Rao, I. O. W. Grade II runs thus :—Visakhapatnam Port Trust is one of the ten major ports in India. It is managed by Board of Trustees headed by a Chairman and there are nine departments in the Visakhapatnam Port Trust. Civil Engineering Department is one of the departments. Shri G. Babu Rao IOW Grade II has been working as I.O.W. in Civil Engineering Department (C. E. Deptt.) Sri G. Babu Rao while he was working as Overseer during 1981 was selected and empanelled by D.P.C. and given Rank No. 1 for the post of I.O.W. Grade II. This was communicated to him on 26-5-1981 under Annexure A. During the currency of the panel, Sri G. Babu Rao was promoted and officiated as I.O.W. Grade II as an approved candidate as seen from Annexure B. He further officiated as I.O.W. Grade II in one of the two temporary posts of I.O.W. Grade II sanctioned for construction of Oil Berth as seen from Annexure C. Sri G. Babu Rao officiated as I.O.W. Grade II in different spells and he continued to officiate till January 1985 as can be seen from Annexure D. His services as I.O.W. Grade II were not regularised for want of dereservation orders from the Government of India.

3. While things stood thus with a view to curry favour and to pick and choose the Management contemplated amendment of recruitment rules for the post of I.O.W. Grade II. During January 1985 D.P.C. was convened and by that D.P.C. Sri G. Babu Rao is empanelled as No. 2 in the selection list as against his original Ranking of No. 1 in 1981 selection. The D.P.C. ignored the fact of his being Rank No. 1 of 1981 and his officiating service as I.O.W. Grade II from 1981 to 1985. His junior was allowed to march over him and that junior was given Rank No. 1 as can be seen from Annexure E. In spite of the fact there are clear Government instructions and in breach of Rules and Regulations and the judicial pronouncements for reasons best known to the Management. Sri G. Babu Rao, I.O.W. Grade II was pinned down from No. 1 position to No. 2 position in the category of I.O.W. Grade II by the DPC Selection of 1985 January. The Selection of 1985 January is impugned in these proceedings. The Hon'ble Industrial Tribunal may be pleased to declare the selection proceedings of the D.P.C. held in the month of January, 1985 and the consequential order Annexure E as void and the Tribunal should uphold the Rank given in 1981 empanelment as valid. The Tribunal may be pleased to pass such other orders as it deems fit granting relief to Sri G. Babu Rao. Sri K. Balakrishna, Senior Lab. Technician, Medical Department of V. P. T. may be allowed to represent the union and conduct the proceedings. His nomination and acceptance has been appended to this claim statement.

4. The counter filed by the Management runs thus :—The material allegation in the claim statement are not true. The petitioner is put to strict proof of all these allegations. Many of them are not valid and binding on the Respondent.

The Petitioner should establish that Sri G. Babu Rao, I.O.W. Grade II is a Member of their Union. The post of I.O.W. Grade II is a Selection post. According to the recruitment rules prescribed for the said post, selection has to be conducted by the Staff Selection Committee in accordance with the procedure laid down in Regulation 15 of the Visakhapatnam Port Trust Employees (Recruitment, Seniority and Promotion) Regulations 1964 (hereinafter called VPTE (RSP) Regulations). In Order to create a panel for filling up of existing and future vacancies of I.O.W. Grade II a Selection was held on 21-3-1981. Sri G. Babu Rao who was then working as Overseer along with the other eligible employees was considered for promotion. He was empanelled and kept in the panel for the post of I.O.W. Grade II. He was appointed as I.O.W. Grade II from 11-6-1981 to 20-7-1981. He also worked as I.O.W. Grade II for different spells from 18-7-1983 on ad hoc basis pending orders of dereservation of S.T. Reservation vacancy. The panel prepared on 31-3-1981 expired on 1-4-1982 before dereservation orders were issued. De-reservation orders were issued on 23-10-1984. Sri G. Babu Rao did not officiate as I.O.W. Grade II on regular basis during the currency of the panel. As the previous panel period expired, there was no bar to call him for selection again in 1985. His officiating on an ad hoc basis as I.O.W. Grade II did not confer on him any right for regular appointment to the post of I.O.W. Grade II. In the subsequent selection held on 3-1-1985 Sri G. Babu Rao appeared before the Selection Committee and he did not object for his being called for selection. He voluntarily appeared and faced the selection committee. Before the Selection of 1985 January was held amendments were issued to recruitment rules for the post of I.O.W. Grade II by reason of these amendments, the category of Technical Assistants was also shown in the line of promotion for the post of I.O.W. Grade II. This amendment was approved by the Port Trust Board. The Port Trust Board is competent to amend the rules. As it is empowered under Regulation 7 of VPTE (RSP) Regulation 1964. As a result of the amendment, Sri D. S. N. Raju, Technical Assistant was also called for selection along with Sri Babu Rao and others. The Selection Committee selected Sri D.S.N. Raju as No. 1 and Sri G. Babu Rao as No. 2, Sri R. Rama Rao as No. 3 and Sri T.S.N. Raju as No. 4. Sri D. S. N. Raju was working as Technical Assistant while the other three persons were working as Overseers at the time of Selection. Sri D.S.N. Raju was under Deputation at the time of selection. He was given paper promotion and Sri G. Babu Rao, Sri R. Rama Rao and T.S.N. Raju were promoted as IOW Grade II on regular basis. The proforma promotion on paper was given to Sri D.S.N. Raju protecting his Rank as Rank No. 1. The various allegations contrary to these facts are not correct. There is no irregularity in the procedure adopted nor was any injustice done to Sri G. Babu Rao. The Selection and the ranking are perfectly legal and valid.

5. Subsequent to the 1985 January Selection, consequent upon reorganisation of grades in the Civil Engineering Department, the post of Sub-Overseer and Overseer were merged into one grade of Overseer. Similarly I.O.W. Grade II and Gr. I were merged into a single I.O.W. Grade I. Due to this merger of Sri G. Babu Rao, became I.O.W. Grade I. When selection for the post of Assistant Engineer (Civil) Class II post was held on 19th and 20th January 1987 Sri D.S.N. Raju, Sri G. Babu Rao and some other juniors were also called for selection. They were all considered and ultimately Sri G. Babu Rao was not selected. It is not open to the petitioner Union to question the selection and the merits of ranking given by the staff selection committee. Ranking is given by the Staff Selection Committee on the basis of performance of the candidates. The Selection proceedings and the Selection Committee which was duly constituted under Statutory Regulations cannot be questioned and this Tribunal cannot sit in judgement over the proceedings of the Selection Committee. This Tribunal may be pleased to dismiss the claim statement with costs.

6. The points for consideration in this industrial dispute are :

- (1) Whether by virtue of empanellment in 1981 March and by reason of his working as I.O.W. Grade II in different spells between March 1981 to January

1985 Sri G. Babu Rao acquired any preferential rights for regular appointment to the post of I.O.W. Grade II.

- (2) Whether there is any irregularity or illegality in conducting the Selection by the D.P.C. on 3-1-1985 and placing Sri G. Babu Rao at Rank No. 2 while giving Rank No. 1 to Sri D. S. N. Raju ?
- (3) To what relief is the workman Sri G. Babu Rao entitled ?

7. Points 1 and 2 :—Sri K. Balakrishna, representing the workmen argued that in the counter and in the evidence the Management did not maintain the clear cut distinction between the Departmental Promotion Committee and Staff Selection Committee. As per the Rules of V. P. T. E. (RSP) Regulations 1964 it is only the Departmental Promotion Committee constituted under Regulation 16 that has to conduct the interviews and selection for promotions as I.O.W. Grade II and Staff Selection Committee constituted under Regulation 15 comes into play only for the purpose of making direct recruitments. He also contends that the allegation of the Management that during the currency of the panel year Sri G. Babu Rao did not function as I.O.W. Grade II is not correct. In fact in the panel year he worked for five years as I.O.W. Grade II in a leave vacancy as evidenced by Ex. W-4. Subsequently as evidenced by Exs. W-5, W-6 and W-8 and as now admitted by MW-1 Sri G. Babu Rao continuously worked as I.O.W. Grade II from 15-7-1983 to the date of the subsequent D.P.C. Proceedings in January, 1985. The vacancies that arose on 18-7-1983 are regular vacancies against two temporary additional posts sanctioned for construction of the oil berth. Considering the rules applicable to this appointment and promotion due weightage should have been given for his working as I.O.W. Grade II during the currency of the panel and his continuous working from 18-7-1983 to the date of subsequent selection and Sri D. S. N. Raju who become eligible to be considered for promotion only by virtue of the amendment of the rules which came into force on 27-6-1984 can under no circumstances be placed above Sri G. Babu Rao. Sri D. S. N. Raju became eligible for consideration long after Sri G. Babu Rao has been empanelled and worked in the post of I.O.W. Grade II. If the rules are applied strictly as Sri G. Babu Rao officiated continuously in the post of I.O.W. Grade II w.e.f. 18-7-1983 he should be regularised and confirmed w.e.f. 18-7-1983. Sri Balakrishna also urged that though additional posts were sanctioned and Sri G. Babu Rao continuously officiated in the said vacancy his regularisation was held up only for want of dereservation orders and as dereservation orders came into effect from 23-10-1984 atleast w.e.f. that date Sri Babu Rao should have been regularised and confirmed in the post of I.O.W. Grade II.

8. On behalf of the Management Kumari G. Sudha contends that the crux of the matter in this case is whether conducting the selection in 1985 January is justified and whether is any justification for the earlier service rendered by Sri G. Babu Rao as I.O.W. Grade II not being given credit while fixing his ranking and for regularisation. According to her the post of I.O.W. Grade II is a promotion post and it is a case of promotion by selection, not a post of automatic promotion post on seniority. She points out as regards the selection made in 1981 there is absolutely no difficulty nobody is disputing it. During the currency of the panel year 1981, March to 1982 First April 1984 except for G. Babu Rao officiating on an ad hoc basis in a leave vacancy nothing also happened. His acting on ad hoc basis in a leave vacancy for five weeks does not confer on him any vested right. The panel lapsed on 1-4-1982. When the D.P.C. met again in January 1985 taking into consideration the amended rules which came into force on 17-6-1984 people were called for interviews and the selection took place. Sri D. S. N. Raju who was holding the post of Technical Assistant in the Visakhapatnam Port Trust and who was actually working on deputation in Hindustan Shipyard in a much higher post as Assistant Engineer (Civil) was called for selection along with Babu Rao and other eligible candidates, and D.S.N. Raju is shown at the top of the seniority list because even his substantive post of Technical Assistant is much higher in cadre than the post of Overseer and even I.O.W. Grade I. On the basis of the performances and his service record and as he scored the highest marks

72/100 he was naturally given Rank No. 1 and G. Babu Rao who scored next higher marks 69/100 was given the second Rank. She also contends that while G. Babu Rao and others who were considered for promotion in 1985 are diploma holders and Overseers, Sri D. S. N. Raju is a Graduate in Engineering holding the higher post of Technical Assistant and he had already officiated as Assistant Engineer (Civil) while he was on deputation in Hindustan Shipyard. Even his substantive post is much higher in rank than I.O.W. Grade I. Sri G. Babu Rao and others cannot have any grievance for Sri D. S. N. Raju being given Rank No. 1 by D.P.C., she contends that this dispute has come to the Tribunal because in the subsequent selection for promotion as Assistant Engineer which took place in January 1987 when D. S. N. Raju and G. Babu Rao and others completed, D. S. N. Raju got selected and was promoted as Assistant Engineer while G. Babu Rao failed to come up for selection. With a view to upset the subsequent promotions this dispute is now raised to upset ranking in the post of I.O.W. Grade II.

9. In the light of the arguments advanced for both the parties, I shall now examine the oral and documentary evidence and record my findings on the two points that are in controversy. The affected workman Sri G. Babu Rao gave evidence as WW-1. He categorically stated that he is a Member of the National Port Trust Employees Union and that the channel of promotion is sub-Overseer to Overseer and Overseer to I.O.W. Grade II and then Chief Inspector of Works which are all in Class III and then the next channel of promotion is Assistant Engineer from Class III to Class II. He has marked in his evidence Exs. W-1 to W-4. He claims that in the D.P.C. proceedings dated 31-3-1981 he was selected and empanelled and put as No. 1. It is now clear from the evidence of MW-1 that G. Babu Rao was given Rank No. 5 in the panel and that there were four other general candidates above him in the panel. The S.T. Candidates were also considered and one of them was empanelled. By the time Ex. W-3 proceedings were issued on 26-5-1981 the four people ranked above him and the S.C. Candidates were already promoted and were working as I.O.W. Grade II. As can be seen from Ex. W-4 Babu Rao an approved candidate was promoted on ad hoc basis w.e.f. 11-6-1981 to the post of I.O.W. Grade II in the vacancy caused by T. Gopalakrishna Murthy proceeding on medical leave for five weeks. Thus it is clear that from 11-6-1981 on ad hoc basis Babu Rao worked as I.O.W. Grade II in a leave vacancy. He did not work as I.O.W. during the rest of the currency of the panel upto 1-4-1982. In the year 1983 under Ex. W-5 G. Babu Rao and R. Rama Rao who were indicated as S. Nos. 1 and 2 in Ex. W-3 were promoted as I.O.W. Grade II w.e.f. 18-7-1983. It is now admitted that from 18-7-1983 onwards he was continuously working as I.O.W. Grade II with short breaks. He claims that for want of de-reservation orders for the S.T. vacancy he could not be regularised. He admits that he was originally promoted against a reserved vacancy. He then claims that for a second time he was called for selection in January 1985 and that he appeared for the selection under protest. There is absolutely no document to indicate that he appeared before the D.P.C. under protest. This claim of the witness is patently false. After 1985 January selection Ex. W-8 proceedings were issued on 21-1-1985 and this indicates that Sri D. S. N. Raju who was a Technical Assistant and who was then working on deputation in Hindustan Shipyard Limited as Assistant Engineer (Civil) is ranked No. 1 and G. Babu Rao ad hoc I.O.W. Grade II was also promoted on a regular basis as I.O.W. Grade II and both these persons were promoted w.e.f. 4-1-1985. R. Rama Rao and T. S. N. Raju are indicated Rank Nos. 3 and 4. Exs. W-8 also indicates that the above four employees will be on probation for two years subject to continuous of the post and their continuance thereon.

10. After Ex. W-8 proceedings were issued on 6-3-1985 Babu Rao submitted his representation Ex. W-9 to the Chief Engineer who is Head of the Department. He claimed that as he officiated in a leave vacancy during the currency of the panel period from 11-6-1981 to 20-7-1981 and as he was subsequently officiating as I.O.W. Grade II from 18-7-1983 onwards and as his regularisation could not be made for want of de-reservation orders, he should be regularised w.e.f. 18-7-1983. In view of the de-reservation orders which came into force on 27-6-1984. He claimed that under no circumstances D. S. N. Raju the erstwhile Technical Assistant can 2998 GI/88—6

be shown above him. His representation was rejected under Ex. W-10 dated 3-4-1985. It was rejected on the ground that during the currency of the panel period he did not officiate as I.O.W. Grade II on regular basis and hence a second selection was conducted on 3-1-1985 as per the rules in force at the relevant time and hence there is no question of regularising his promotion from 18-7-1983. It was also indicated in Ex. W-10 that ad hoc promotion does not confer any right for regularisation or regular promotion. He made another representation to the Chairman, of the Port Trust under Ex. W-11 dated 23-4-1985 and that was also rejected as can be seen from Ex. W-12 issued by the Chief Engineer.

11. In the cross examination the witness admits that the promotion to the post of I.O.W. Grade II is by selection and that he was promoted on ad hoc basis from 11-6-1981 and again from 18-7-1983 he was promoted on ad hoc basis. He admits that he did not file any written protest when he was called for second time selection in January 1985. He admits that for the selection held on 3-1-1985 several people appeared and were considered but only the people shown in Ex. W-8 were given promotions on regular basis. A perusal of Ex. M-4 shows that 16 persons were considered for selection by D.P.C. and of them S. Nos. 13 and 15 were absent. Ex. M-4 also shows that D. S. N. Raju, Technical Assistant scored 72 marks out of 100 marks while G. Babu Rao, R. Rama Rao and T. S. N. Raju scored 69, 68 and 67 marks out of 100 respectively. A perusal of Ex. M-4 shows that all people who scored more than 60 percent marks were found fit and given ranking according to marks scored by them. S. No. 8, Puvushothandas who scored 61 marks is the last man selected. It may be pertinent to point out in this context that though the selection was done by Departmental Promotion Committee the proceedings Ex. W-8 are issued as if they are proceedings of the Staff Selection Committee. It is an obvious mistake for D.P.C. I shall point out this particular defect while I discuss the relevant rules. The witness admits in the end portion of his cross examination that he was called for interview for promotion as Assistant Engineer and in that selection D. S. N. Raju got selected and he was not selected.

12. When we examine the evidence of MW-1 the Personnel Officer of the Port Trust, we find that the witness is not maintaining a clear distinction between Departmental Promotion Committee and Staff Selection Committee though their functions and nature of work are totally different and distinct. He admits in June and July 1981 G. Babu Rao worked on ad hoc basis in a vacancy meant for S.C. and S.T. candidates. It is actually a leave vacancy. During the currency of the panel no further vacancies arose. In the D.P.C. meeting held on 3-1-1985 Babu Rao was selected and given rank No. 2. He stated that by the time 1985 January Selection took place, there was amendment to the rules and Technical Assistants who drew higher salary than Overseer and who did not have avenues of promotion were also made eligible for promotion as I.O.W. Grade II. Then the witness states as Technical Assistant is on a higher scale than Overseer in the seniority list Sri D. S. N. Raju was shown as No. 1. That is why Babu Rao who should have been No. 1 in the seniority of general candidates became No. 2. Out of the 8 empanelled candidates No. 1 D. S. N. Raju is a Technical Assistant and others are all Overseers. The Technical Assistant was No. 1 in the seniority list as well as in the selected panel. Speaking about the qualifications of D. S. N. Raju and G. Babu Rao, the witness stated as follows: "D. S. N. Raju was working on deputation with Hindustan Shipyard Limited, as a Design Assistant. He is a Graduate in Civil Engineering and he is having two years experience. On the date of selection 4-1-1985 he was holding the post of Design Assistant which is much higher than I.O.W. Grade II. His scale of pay was also much higher than scale of pay of I.O.W. Grade II. He was first given promotion without prejudice to his being on other duty on deputation. Later D. S. N. Raju came back to the Port Trust and joined as I.O.W. Grade II. The witness claims that there is no irregularity in promoting Sri D. S. N. Raju and Sri G. Babu Rao and that he was not denied seniority and vacancy which is legitimately due to him. In the cross examination the witness stated that Departmental Promotion Committee is distinct from Staff Selection Committee and these Committee perform the functions which are given to them under Ex. W-2 Rules. Seeing Ex. W-3 he stated that by the time Ex. W-3

was issued four other general candidates and one S.C. candidate empanelled in March 1981 were promoted as I.O.W. Grade II before that date. He admits that during the currency of the panel Babu Rao worked as I.O.W. Grade II in the leave vacancy of Gopalakrishna Murthy. He claims that this promotion was on an ad hoc basis. He also admits that from 18-7-1983 onwards Babu Rao was working as I.O.W. Grade II in the newly sanctioned posts for construction of Oil berth. He points out that as can be seen from Ex. W-5 and Ex. W-6 the promotions were subject to the condition that the promotions are purely on ad hoc basis pending recruitment of S.C. or S.T. candidates and on such recruitment candidates will be reverted to their formed posts and that this would not confer any rights to claim future promotions. This note is found both in Exs. W-5 and W-6. The witness stated as follows : "It is true that from 18-7-1983 to 3-1-1985 Babu Rao continued to work as I.O.W. Grade II with about two or three breaks. The total period of breaks will be one or two days for each break. I am not in a position to say whether during the period of those breaks the sanction for additional posts continued or not. Unless I verify records I cannot speak definitely on this aspect. It is true normally posts are not desanctioned for short spell of two or three days." The witness further stated that "according to the Rules the D.P.C. will have meet once or twice in a year and review the promotions and possible vacancies that might arise and then prepare panels" Then the witness adds "that they are not strictly following this rule."

13. We have to judge the issues involved in this case in the light of the various admissions made by MW-1 and the rules. Ex. W-2 is the extract of V.P.T. Employees (Recruitment, Seniority and Promotion) Regulations 1964 Regulation 3(d) defines Departmental Promotion Committee and it clearly indicates that it is the Committee constituted from time to time under Regulation 16 for the purpose of making recommendations for promotion or confirmation in any grade or post. Regulation 3(L) defines Staff Selection Committee as the Committee constituted under Regulation 15 for the selection of candidates by means of a competitive examination or interview or both for appointment to the post reserved for direct recruitment. Thus it is clear that the functions of the Staff Selection Committee are total different and distinct from the functions and duties of the D.P.C. We when see Regulation 15 we find that Staff Selection Committee are constituted for each grade as indicated in the Regulations. Under Regulation 16 the Departmental Promotion Committee is constituted for each Grade as indicated in the Regulations. Regulation 16 further indicates that the Departmental Promotion Committee shall meet once or twice in a year as may be necessary and prepare a select list of employees fit for appointment against the promotion quota of vacancies in the various grades or posts. The Regulation also mentions where promotions are made on the basis of merit normally the field of selection shall not be less than three times and shall not be more than five times the number of vacancies subject to employees with necessary qualifications or experience being available, and it also mentions that the panel should be arranged according to order of merit and the select list so prepared shall be utilised for filling up vacancies likely to arise during the course of the year. While judging merits of an employee due regard shall be given to the seniority also. Regulation 17 deals with filling up vacancies on ad hoc basis. Regulation 11 deals with seniority. Under this regulation for permanent employees, the seniority inter-se is based upon substantive appointment is a grade or post. For temporary employees, seniority between persons directly recruited and promotees shall be assigned as per rotation of vacancies between the direct recruits and promotees and it should be based on the quota of vacancies in the grade reserved for direct recruitment and promotion. Among direct recruits inter-se seniority will be based upon the order of merit in which they were placed by examining or interviewing body. Among the promotees ranking shall be based upon the order in which they are recruited by promotion by D.P.C. Ex. W-13 is an extract of the Civil Service Regulations and this gives the general position and the commentary. It is now admitted that Civil Service Regulations apply to the Port Trust Employees. It should be remembered that it is the bounden duty of the authorities to conform to the Civil Service Regulation and that D.P.Cs. have necessarily to meet once in a year as contemplated by the Rules. The statement of MW-1 that they are not following the rule of the Departmental Committee meeting once or twice in a year regularly

cannot be countenanced. If that rule is observed we find that the position in this case gets totally altered.

14. It is now well established by Ex. W-3 and M-3 that Sri Babu Rao and R. Rama Rao, Overseers were selected and empanelled by the D.P.C. on 31-3-1981, that panel will be in force till 1-4-1982 during the currency of that panel. Sri G. Babu Rao was promoted on an ad hoc basis as I.O.W. Grade II w.e.f. 11-6-1981 for a period of five weeks. If the D.P.C. had met in 1982 naturally Babu Rao and Rama Rao would have occupied Rank 1 and 2 in the select list. If the D.P.C. had met in 1983 and prepared panels or approved panels again G. Babu Rao and Rama Rao would have occupied Ranks 1 and 2 in the panel of that year. Under Ex. W-5 when two Additional posts were sanctioned for construction of Oil Berth G. Babu Rao and Rama Rao were promoted w.e.f. 18-7-1983. It is now admitted that from 18-7-1983 onwards Babu Rao and Rama Rao were continuously working in these two additional posts when they were called for the second selection in January 1985. If the D.P.C. had met in 1983 in strict accordance with Regulation 16 Babu Rao and Rama Rao who were promoted under Ex. W-5 would have been working during the currency of the panel for the year 1983-84. As they were working in additional posts sanctioned, they would have acquired rights for being regularised. The same would have been the position if the D.P.C. had met in 1984 during the year 1984-85. The de-reservation orders were issued on 23-10-1984 and hence Babu Rao and Rama Rao would have acquired the right to be regularised in the dereserved vacancies which arose on 23-10-1984.

15. Another peculiar fact that took place in the year 1984-85 is the Amendment of the Rules for the post of I.O.W. Grade II which came into force w.e.f. 27-6-1984. Under this Amendment which is indicated in Ex. M-2 for the first time, Technical Assistant became eligible to be considered for promotion as I.O.W. Grade II. Till 27-6-1984, Sri D. S. N. Raju who was working as Technical Assistant and who was on deputation to the Hindustan Shipyard as Assistant Engineer (Civil) as is clear from Ex. W-8 as Design Assistant as spoken to by MW-1 did not have the eligibility to be considered for promotion as I.O.W. Grade II. In this proceedings we are not concerned with the superior qualification and his superior experience and the fact that he was holding very high post. Under the Rules for the first time he acquired the eligibility to be considered for promotion as I.O.W. Grade II only on 27-6-1984. If the D.P.C. had met in 1984 March or January naturally G. Babu Rao and Rama Rao would have been considered as Seniors to D. S. N. Raju. Only for the D.P.C. conducted in January 1985 Sri D. S. N. Raju became eligible for consideration. In this background we cannot ignore the fact of G. Babu Rao working in a temporary vacancy or on an ad hoc basis both during the currency of the panel year 1981-82 and subsequent panel years. There is no justification for showing Sri D. S. N. Raju as No. 1 in the seniority list for the D.P.C. meeting in 1985 January. He should necessarily come below Sri G. Babu Rao and others who would have been empanelled prior to January 1985.

16. If the Port Trust conducted the D.P.C. Proceedings every year in accordance with the rules, definitely Sri D.S.N. Raju would be junior to G. Babu Rao. The person who for the first time acquired eligibility for promotion on 27-6-1984 by virtue of the Amendment of the Rules cannot be projected above the persons who were earlier empanelled and who earlier officiated either on ad hoc basis or on temporary posts.

17. I make it clear that as regards the subsequent selection that took place for the post of Assistant Engineer in January 1987 a the post of Assistant Engineer is Class II post and as it is a case of promotion by selection on the basis of merit it is open to the D. P. C. to prefer a junior man in preference to the less qualified men who are seniors to him. It is clear from the evidence of M.W. 1 that new Writ Petition No. 1812/87 filed on 17-2-1987 is pending in the High Court regarding the irregularities committed in that selection

held in January 1987. This Tribunal is in no way concerned with that selection.

18. For the various reasons given above, I hold on Point No. 1 that by virtue of empanelment in 1981 March and by reason of his working as I.O.W. Grade II in different spells between March 1981 and January 1985 Sri G. Babu Rao acquired preferential right for regular appointment to the post of I.O.W. Grade II and at any rate he became entitled to be regularised w.e.f. 23-10-1984 on which date the de-reservation orders came into force. On examining the material placed before me, I am not in a position to give a definite finding as to whether G. Babu Rao continuously officiated as I.O.W. Grade II w.e.f. 18-7-1983. I am clear in my mind that he became eligible for regularisation w.e.f. 23-10-1984 on which date the posts were de-reserved.

19. I hold on Point No. 2 that there is irregularity in conducting the selection by D.P.C. on 3-1-1985 in the sense that D. S. N. Raju, Technical Assistant who became eligible for promotion only on 27-6-1984 was accorded seniority over G. Babu Rao. No material has been placed before me to show that there were any adverse remarks against G. Babu Rao which rendered his being unfit for regularisation or confirmation. Justice requires that Babu Rao should be ranked above D. S. N. Raju by the D. P. C. which met on 3-1-1985. I make it clear that G. Babu Rao appeared before the D.P.C. on 3-1-1985 without any protest.

20. The decision relied upon by the Management AIR 1987 S. C Page 1889 (STATE BANK OF INDIA v. MOHD. MYNUDDIN) is not all applicable in the present case, I am fully conscious of the fact that the Tribunal is not competent to appreciate the abilities, qualities or attributes necessary for promotional posts but the Tribunal is certainly entitled to interfere if promotion has been denied arbitrarily or without any reason, the Court can issue a direction to the Management to consider the case of the officer, in the present case the injustice occurred by reason of D.P.C. not meeting regularly as contemplated under the rules and injustice also occurred because the Management overlooked the fact of Sri G. Babu Rao being empanelled earlier and his working for a short period during the currency of the panel and subsequently working against temporary additional posts sanctioned for the construction of the Oil Berth. Had the D. P. C. met regularly Sri G. Babu Rao would have acquired the right to be regularised from a much earlier date. The principles laid down in 1987 S. C. page 1889 do not apply to the facts of our case.

21. Point 3 : I hold on point 3 that Sri G. Babu Rao is entitled to be declared as senior to Sri D. S. N. Raju in the cadre of I. O. W Grade II.

22. In the result I answer the reference as follows : The action of the Management of Visakhapatnam Port Trust in placing Sri G. Babu Rao, Overseer as No. 2 in the select list prepared on 3-1-1985 by the D. P. C. is not correct and by

reason of his having been empanelled in 1981 and having worked as I. O. W. Grade II between 11-6-1981 and 3-1-1985 in different spells, he is entitled to be placed above Sri D. S. N. Raju in the select list.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 13th day of October, 1988.

[No. L-34012/6/86:D:IV(A)/D.III(B)]

Appendix of Evidence

Witnesses Examined for the Workman :

W. W-1 G. Babu Rao

Witnesses Examined for the Management :

M. W-1 P. S. N. Murthy.

Documents marked for the Workmen

Ex. W-1.—Photostat copy of the extract from Recruitment Rules of Visakhapatnam Port Trust for all posts.

Ex. W-2.—Photostat copy of the Visakhapatnam Port Employees Regulations 1964 (Recruitment Seniority and Promotion)

Ex. W-3.—Photostat copy of the letter dt. 26-5-1981 with regard to Selection to the post of I. O. W. Grade II (Class II) on scale Rs. 675-1187 held on 31-3-1981 Panel—regarding.

Ex. W-4.—Photostat copy of the letter dt. 2-7-1981 of the Chief Engineer, Engineering Department, Visakhapatnam with regard to officiating arrangement.

Ex. W-5.—Photostat copy of the office order No. CE/271/83, dt. 15-7-83 with regard to officiating arrangements for the post of I.O.W. Grade I and I.O.W. Grade II (on ad hoc).

Ex. W-6.—Photostat copy of the office order No. CE/39/84, dt. 28-1-84 with regard to officiating arrangements for the post of I. O. W. Grade II.

Ex. W-7.—Letter dt. 28-3-81 addressed by Chief Engineer, Visakhapatnam Port Trust, Engineering Department to G. Babu Rao with regard to Selection for the post of I. O. W. Grade II.

Ex. W-8.—Photostat copy of the Office Order No. CE/24/85 dt. 21-1-1985 which regard to Officiating arrangements to the post of I. O. W. Grade II issued to G. Babu Rao and three others by the Chief Engineer, Engineering Department, Visakhapatnam.

Ex. W-9.—Representation dt. 6-3-85 made by G. Babu Rao to the Chief Engineer, Visakhapatnam Port Trust, Vizag.

Ex. W-10.—Photostat copy of the letter dated 3-4-1985 addressed to G. Babu Rao by the Chief Engineer, Visakhapatnam Port Trust, Engineering Department in view of the representation made by G. Babu Rao

Ex. W-11.—Request letter dt. 23-4-1985 of G. Babu Rao under grievance procedure to the Chairman, Visakhapatnam Port Trust, Visakhapatnam.

Ex. W-12.—Photostat copy of the letter dt. 9-7-1985 addressed to G. Babu Rao by the Chief Engineer, Visakhapatnam Port Trust, Engineering Department with regard to representation of G. Babu Rao under grievance procedure dt. 23-4-85.

Ex. W-13.—Photostat copy of the extract from Chandri's compilation of the Civil Service Regulation Vol-II 12th Edition 1982 (Part-I)

Documents marked for the Management :-

Ex. M-1.—Extract of Boards resolution No. 17/84-85 of the Board Meeting held on 27-6-1984.

Ex. M-2.—True copy of the Amendment to the Recruitment Rules to the post of I. O. W. Grade-II (C. I-III) (Engineering Department).

Ex. M-3.—Proceedings of the Staff Selection Committee for selection to the post of Inspector of Works Grade-II on scale Rs. 675-1187 held on 31-3-1981.

Ex. M-4.—Staff Selection Committee meeting held on 3-1-1985 for post of I. O. W. Grade-II.

नई दिल्ली, 25 नवम्बर, 1988

का.आ.3619:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार एस.जी.बी.के. मंगनीज मारिन ऑफ मैसर्स उडुसा माइनिंग कारपोरेशन लि. के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचाद को प्रकाशित करता है, जो केन्द्रीय सरकार को 21-11-88 को प्राप्त हुआ था।

New Delhi, the 25th November, 1988

S.O. 3619.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.G.B.K. Mn. Mines of M/s. Orissa Mining Corporation Limited and their workmen, which was received by the Central Government on the 21-11-1988.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT :

Shri S. K. Misra, LL.B.,

Presiding Officer, Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute Case No. 17 of 1987 (Central)
Dated, Bhubaneswar, the 10th November, 1988

BETWEEN

The Management of S.G.B.K. Mn. Mines of
M/s. Orissa Mining Corporation Limited.

..First Party—Management
Vrs.

Their workman Shri A. T. Anaswarl,

Urdu Teacher, At/P.O. Guruda, Via-Joda,
Distt. Keonjhar, Orissa.

..Second Party—Workman

APPEARANCES :

Sri G. K. Mitra, Sr. Labour Officer.—For the
First Party—Management.

Sri B. Khillar.—For the Second Party—Workman.

AWARD

1. The Government of India in the Ministry of Labour in exercise of the powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their Order No. L-27012/20/85-D.III(B) dated 20th February, 1987 have referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the Management of S.G.B.K. Manganese Mines of M/s. Orissa Mining Corporation Limited At/P.O.—Guruda, Via-Joda, Distt. Keonjhar in terminating the services of Shri A. T. Anaswarl, Urdu Teacher is justified? If not, to what relief is the worker entitled?”

2. It is the case of the workman (Second Party) that he served as an Urdu Teacher in a school run by the mining contractor M/s. Sirajuddin & Co. on permanent basis. The period of mining lease of M/s. Sirajuddin & Co. having expired, the mining operation was taken over on 8-2-1982 by the Orissa Mining Corporation Ltd. (First Party) in pursuance of an agreement between the First Party and the Government of Orissa. Pursuant to the aforesaid agreement on 6-3-1983 the second party was appointed in his post as an Urdu Teacher and he continued in the said post until 19-6-1984 when he was illegally retrenched.

3. The case of the First Party—Management is that the Orissa Mining Corporation was engaged to continue the mining operation after the expiry of the lease of M/s. Sirajuddin & Co. as an agent of the

State Government and in pursuance of an agreement, it took over possession of the mines and commenced work in the mines, from 18-6-1982. After commencement of the work in the mines, it was found out that there was squeezing of work in the mines and many employees of M/s. Sirajuddin & Co. who had been employed by the First Party became surplus who enjoyed idle wages. Under the circumstance, there was discussion between the First Party and the Union representing the workman and as agreed between them, some workmen were terminated on payment of terminal benefits. Some employees who had attained the age of superannuation, were also terminated.

4. On the pleadings of the parties the following two issues were framed :—

ISSUES

- (1) If the action of the Management of S.G.B.K. Manganese Mines of M/s. Orissa Mining Corporation Limited, At P.O. Guruda, Via-Joda, Distt. Keonjhar in terminating the services of Shri A. T. Anaswari, Urdu Teacher is justified?
- (2) To what relief, the workman Shri Anaswari is entitled?

FINDINGS

5. Issue No. 1.—So far as this issue is concerned, the workman examined himself as W.W. 1 and stated that from 1964 he worked as an Urdu Teacher in a school run by the mining contractor M/s. Sirajuddin & Co. Even after the Management of M/s. Sirajuddin & Co. was taken over by the Orissa Mining Corporation, he continued as Urdu Teacher in the school until 6-3-1983 during which period he received salary from M/s. Sirajuddin & Co. On 6-3-1983 on his application he was appointed as an Urdu Teacher for a period of 42 days on daily wage basis as per Ext. 1 until his services were terminated by way of retrenchment by the order Ext. 2 dated 19-6-1984 without any notice to him and without payment of retrenchment compensation. It was suggested to him in his cross-examination that there were no students in the school reading Urdu when he was terminated which fact he denied.

After the evidence on the side of the workman was closed, the case of Miss A. Sundarambal, Appellant V. Government of Goa, Daman & Diu and others. Respondents reported in A.I.R. 1988 S.C. 1700 came to my notice.

In the aforesaid case the services of Miss A. Sundarambal, a teacher in a school conducted by the Society of Franciscan Sisters of Mary at Caranzalem, Goa, were terminated by the Management. The appellant then raised an industrial dispute before the conciliation officer under the Industrial Disputes Act. The Conciliation Officer submitted a failure report to the Government of Goa, Daman and Diu. Holding that the appellant was not a "workman" as defined in the Industrial Disputes Act and as such there was no industrial dispute in existence, it declined to make any reference. The appellant carried the matter before the High Court of Bombay Panaji Bench, Goa

and after being unsuccessful there, carried the matter before the Supreme Court of India.

The Hon'ble Supreme Court of India formulated two questions for consideration and those were :—

- (i) Whether the school, in which the appellant was working, was an industry?
- (ii) Whether the appellant was a "workman" employed in that industry?

Their Lordships in consideration of the earlier decision of the Supreme Court, in the case of Bangalore Water Supply & Sewerage Board Vrs. A. Rajappa (AIR 1978 S.C. 548) held that an educational institution has to be treated as an industry. On the second question, however, their Lordships of the Supreme Court held that a 'Teacher' in a school being not engaged to do any skilled or unskilled manual, supervisory, technical or clerical work, does not become a "workman" within the meaning of the Industrial Disputes Act. In the case of Miss A. Sundarambal, their Lordships accordingly held that she was not a "workman" though the school was an industry and as such he was not covered by the provisions of the Industrial Disputes Act. Accordingly, their Lordships dismissed the appeal of Miss A. Sundarambal.

6. In view of such decision of the Hon'ble Supreme Court of India, it was felt by me that the present reference u/s. 10(1)(d) of the Industrial Disputes Act has become incompetent. Accordingly, opportunity was given to both parties to have their say on the matter. Both parties addressed this Tribunal on the question of maintainability of this reference in view of the decision referred to above. After careful consideration of the submissions made on behalf of both parties and the decision of the Hon'ble Supreme Court of India to the effect that though a school is an industry, a teacher of the school not being employed to do any skilled or unskilled manual, supervisory, technical or clerical work, is not a "workman" as defined in the Industrial Disputes Act, though he is an employee of an industry. I would hold that the present reference with regard to Sri A. T. Anaswari, a teacher, has become incompetent and not maintainable.

7. The reference is answered accordingly.

Sd/-

S. K. MISRA, Presiding Officer.

[No. L-27012/20/85-D.III(B)]

का.आ. 3620—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्मचारी राज्याधीन निगम महामाव के प्रबन्धन में सम्बद्ध निरीक्षणों और उनके कार्यकर्ताओं के बीच प्रमुख में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, महामाव के पंचाद को प्रकाशित करता है, जो केन्द्रीय सरकार को 18-11-88 को प्राप्त हुआ था।

S.O. 3620.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the

Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Employees State Insurance Corporation Ahmedabad and their workmen, which was received by the Central Government on the 18-11-88.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER, INDUSTRIAL-TRIBUNAL (CENTRAL) AT AHMEDABAD

Reference (ITC) No. 30 of 1984

Adjudication

BETWEEN

The management of the Employees State Insurance Corporation, Ahmedabad

AND

Their workmen

In the matter of the termination of the service of Shri S. S. Ganguli, Lower-Division Clerk.

APPEARANCES :—

Shri H. M. Shah for the Employees' State Insurance Corporation.

None for the workman concerned.

AWARD

The Central Government, in exercise of the powers conferred by S. 7A and clause (d) of Sub-Sec. (1) of S. 10 of the Industrial Disputes Act, 1947, constituted an Industrial Tribunal with the undersigned as Presiding Officer, with headquarters at Ahmedabad, and referred for adjudication the dispute existing between the employers in relation to the management of the Employees' State Insurance Corporation, Ahmedabad ("the Corporation" to be brief) and their workman in respect of the matter specified in the Schedule annexed thereto, viz :—

"Whether the action of the Regional Director, ESIC, Ahmedabad in terminating the services of Shri S. S. Ganguli, LDC w.e.f. 11-11-82 (A. N.) is justified? If not, to what relief the workman is entitled?"

2. Shri S. S. Ganguli mentioned in the Schedule above ("the workman concerned" to be brief) filed his statement of claim (Ex. 2) along with several documents, copies of all of which were duly delivered to the other side viz. the Regional Director, Employees' State Insurance Corporation, Gujarat Region, Ahmedabad. The Corporation filed its written statement (Ex. 6) in reply to the Statement of Claim (Ex. 2) in which it gave para-wise remarks against the averments made in the Statement of Claim. The matter was then placed for hearing but was being adjourned from time to time as the workman concerned was not remaining present. The workman concerned remained present, in person, only once. On that occasion, he had submitted an application (Ex. 8) stating that as he had to engage an advocate, the matter may be adjourned in the interest of justice. The request made in his application was granted and

the matter was adjourned. However, after that the workman concerned never remained present although the matter was being adjourned from time to time to give him an opportunity to remain present and present his case. After that, the matter was adjourned for a number of times but the workman concerned failed to remain present before the Tribunal.

2. It is true that in this case the workman concerned has not appeared before the Tribunal to plead his case. He has also not shown sufficient cause for his absence. In such circumstances, the Tribunal is empowered to proceed ex-parte. However, it is well settled that when one of the parties to the proceedings fails to appear, the adjudicator is not absolved of his duty to make determination of the dispute which he is called upon to decide. The scheme of the Act and the Rules make it obvious that even though a party is placed ex-parte, the Tribunal must pronounce on the dispute and record its findings with respect to that matter. It has been held in a number of decisions of various High Courts that the power to proceed ex-parte would not enable the Tribunal either to do away with the enquiry or to straightway pass an award without giving a finding on the merits of the dispute. In other words, the absence of a party does not entail the consequence that an award will straightway be made against him. A reference under Sec. 10 sits in motion adjudication proceedings and they cannot be stopped except by passing of an award. Thus, a Tribunal cannot refuse to adjudicate on the dispute and it cannot dismiss the dispute for non-prosecution.

3. In view of the above position of law, I am required to decide the dispute on merits relying on the material on record of the case. Now, the record shows that along with the statement of claim, the workman concerned has filed several documents. The documents which are important for the purposes of this case are the various orders of appointment (on the post of Lower Division Clerk) and termination of the workman concerned, along with several other persons. It is clear from these orders that the workman concerned was being appointed and terminated and again appointed after giving 2 days' break each time. Accordingly, the workman concerned has worked with the Corporation as under :—

1-10-81 F. N.	to 19-12-81 F. N.
22-12-81 "	to 19-3-82 "
22-3-82 "	to 4-6-82 "
7-6-82 "	to 27-8-82 "
30-8-82 "	to 11-11-82 "

His services were lastly terminated w.e.f. 11-11-1982 by an order of the Corporation. There is also a certificate on record given by the Regional Director of the Corporation certifying that the workman concerned did work as above. It is important to note that the above facts are not denied in the written statement of the Corporation. However, the points tried to be made out by the Corporation are :—

(1) The workman concerned is not a "workman" within the meaning of the term under the Industrial Disputes Act, 1947 ("the Act" to be brief).

- (2) He failed to qualify by passing the written test of Lower Division Clerk's as required under the ESI Recruitment Regulations and hence his services were terminated.
- (3) The workman concerned was not entitled and the Corporation was not liable to pay retrenchment compensation.

So far as the first point is concerned, I do not think it can stand for a moment looking to the definition of the term "workman" under the Act. I shall deal with the second and third points later in this Award.

4. Looking to the above material on record, it is an uncontroverted fact that the workman concerned worked with the Corporation for the period 1-10-1981 to 11-11-1982 with breaks of only two days for four times (the breaks, however, are not material for the purposes of deciding the dispute). Thus, he has worked for more than 240 days during a period of 12 calendar months preceding the date of his termination. Now the settled law at the time when the impugned termination was effected was that termination for any reason whatsoever amounted to "retrenchment" within the meaning of Sec. 2(00) of the Act, and further that when there is "retrenchment" the provisions of Sec. 25F are attracted provided the conditions laid down in Sec. 25F are fulfilled. As stated above, the workman concerned had actually worked for not less than 240 days during a period of twelve calendar months preceding the date of his retrenchment. Therefore, payment of fifteen days' average pay is mandatory which, on its own admission, the Corporation has not done. The termination of service of the workman concerned with effect from 11-11-1982 A. N. is, therefore, clearly illegal and inoperative. Now, the second point made out on behalf of the Corporation that he had failed to qualify by passing the written test may be all right for not continuing him but that does not absolve the Corporation from its legal liability under the law to make payment of retrenchment compensation. The third point of the Corporation does not survive in view of the above position.

5. As held above, the termination of the services of the workman concerned was illegal and inoperative. The normal relief to be granted in such cases would be reinstatement with full back wages. However, it is also now well settled that it is not necessary in all cases to direct reinstatement. The Tribunal is required to decide the question of reinstatement and/or compensation in the light of the facts and circumstances of each case. Now considering the facts and circumstances of the present case, the first thing to be observed is that for regular appointment as a Lower Division Clerk in the Corporation a candidate has to pass the open competitive examination as per the recruitment rules of the Corporation. The workman concerned had failed to qualify for the post by passing the written test although he was given an opportunity for the same. So, when a large number of candidates were declared qualified, he had to be replaced by qualified persons. One more fact is that on his own admission he was age-barred at that time. Therefore, if he is directed to be reinstated now, he would be a workman who is not qualified for the post and who was age-barred when

other qualified candidates were appointed. This would create an anomalous position on the establishment of the Corporation. In my opinion, therefore, directing reinstatement of the workman concerned in the circumstances of this case would be wholly inequitable. The proper course would be to direct payment of suitable compensation. Considering all the facts and circumstances of the present case, I think the ends of justice would be met if he is granted 75 per cent of back wages, as compensation.

6. For the foregoing reasons, it is directed that the Corporation shall pay to the workman concerned, by way of compensation, 75 per cent of the wages which he would have earned had his services not been terminated, from the date of termination of his service till the date of this Award. For the purposes of this calculation, he should be deemed to be in uninterrupted service for the whole intervening period. As the workman concerned has not remained present, no orders are made as to costs.

7. The amount to be paid to the workman concerned under the directions of this Award shall be paid to him within 3 months from the date this Award becomes enforceable.

Ahmedabad.

Dated 28th October, 1988.

G. S. BAROT, Presiding Officer

[No. L-15012/1/83-D. III(B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 24 नवम्बर, 1988

का.बा. 3621.—औद्योगिक विवाद अधिनियम, 1947 (1947 क 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सैवर्ज सिंगरानी कोलियरिज कम्पनी लि. रामगुडम एरिया 1 के प्रबन्धकों के सम्बन्ध में उनके कर्मचारियों के बीच, अनुसूची में निम्नलिखित औद्योगिक विवाद में औद्योगिक प्रतिक्रिया हेतुवाद के पंचांग को प्रकाशित करता है जो केन्द्रीय सरकार को 15-11-88 को प्राप्त हुआ था।

New Delhi, the 24th November, 1988

S.O. 3621.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s, Singarani Collieries Company Limited, Ramagudam Area 1, Godavari Khani and their workmen which was received by the Central Government on the 15th November, 1988.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD.

PRESIDENT :

Sri D. J. Jagannadha Raju, B.A., B.L., Presiding Officer.

Dated: 27th October, 1988.

Industrial Dispute No. 24 of 1987

BETWEEN :

Workmen of Ramagundam Area I, M/s. S.C. Co. Ltd., P.O. Godavarikhani, Karimnagar District. (A.P.)

AND

The Management of Ramagundam Area I, M/s. S.C. Co. Ltd., P.O. Godavarikhani, Karimnagar District. (A.P.)

APPEARANCES :

Sarvasri G. Bikshapathy, G. Vidya Sagar, V. Vishwanatham and N. Vinesh Raj, Advocates for the Workmen.

Sarvasri K. Srinivasa Murthy, P. Dhananjaya, Kum. G. Sudha and Kum. V. Usha Rani, Advocates for Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-21012/41/86-D.III(B) dated 8th May, 1987 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the Management of Ramagundam Area-I, M/s. Singareni Collieries Company Limited, P.O. Godavari khani, Karimnagar District and their workmen to this Tribunal for adjudication :

"Whether the action on the part of the Management of M/s. Singareni Collieries Co. Ltd., in relations to Ramagundam Area-I, Godavari Khani in dismissing Sri V. Ramaswamy, Driver with effect from 25-10-1985 is justified ? If not, to what relief the workman is entitled ?

This reference was registered as Industrial Dispute No. 24 of 1987 and notices were issued to the parties.

2. This matter is now coming for adjudication on merits. Earlier this Tribunal decided the question of validity of the domestic enquiry as a preliminary issue and an elaborate order was passed on 4th July, 1988. All the facts have been set out in detail in the order dated 4-7-1988 and hence it would be unnecessary to reiterate the pleadings in detail in this order.

3. For the sake of fulness of the judgement I shall briefly set out the gist of the claim statement and the counter filed by the Management. Sri V. Ramaswamy the worker was working as a Driver under the Respondent from January, 1965. On 20-3-1985 he was in the second shift and he reported for duty late. When the Clerk objected for his signing the attendance register, an incident took place. He abused the Clerk and other officials and he indulged in violence. The claims that he was humiliated by the Clerk on the instigation and at the instance of the Junior Transport Officer Sri Kodanda Ramaiah who is said to be enmical to him. He claims that the Junior Transport Officer was misusing the power. On 21st March 1985 the charge sheet was served on him alleging that he abused the Clerk and misbehaved

with J.T.O. and abused J.T.O. in filthy language. He was charged for misconduct under Standing Orders 16(5), 16(9) and 16(11). When an enquiry was conducted and ultimately he was dismissed from service by an order dated 24-10-1985. Then he raised the present industrial dispute.

3. In short the counter raised the following points. The petitioner filed the claim statement twisting the facts to suit his needs. It is not correct to say that he was serving the Company to his best of his ability and he had clean record for two decades. The record indicates that he was never maintaining good record and he was habitual absentee, caused accidents while on duty on two or three occasions. He was in the habit of abusing the officers and colleagues and he used to misbehave while on duty. On several occasions he had been charge sheeted and enquiries were conducted. He was suspended thrice from 1979 to 1980. The Management was taking a lenient view and letting him off with warnings and minor punishments. In spite of past bad record, the workman did not improve his conduct and he has chosen to commit misconducts which are now indicated in the charge sheet dt. 21-3-1985. On that day (20-3-85) he came late for duty and indulged in abusing the Clerk and J.T.O. in most filthy language. He stopped movement of all the vehicles upto 3.45 P.M. This workman is in the habit of abusing superiors in spite of his being warned several times. That day he did not attend duty in the second shift. He instigated other drivers not to take the vehicles. He challenged the authority of the officer. On the same day at 11.00 P.M. he again came to the Transport Section and misbehaved and threatened the Clerk. A domestic enquiry was conducted in strict accordance with principles of natural justice. The charges were proved and after considering the record of enquiry and the evidence and after considering the past record, the General Manager dismissed the employees w.e.f. 25-10-1985.

4. As can be seen from the order dated 4th July, 1988 passed by this Tribunal. The domestic enquiry is perfectly valid. It is conducted in strict accordance with principles of natural justice. The charge sheeted employee was given more than reasonable opportunity to defend himself and in fact the defence evidence adduced by him indicates his misconduct. This Tribunal recorded its findings in Paragraph 17 of the Order. The concluding portion of that paragraph reads as follow :—

"After reading the entire record of the disciplinary proceedings, I have a feeling that this is a case of active trade union leader thinking that he is entitled to privileged treatment. He seems to think that because he is organising Secretary of Trade Union he is entitled to certain privileges and he can ride rough shod over others and he picked up quarrels with everybody. His own colleagues tried to pacify him and his colleagues offered apology to J.T.O. for the misbehaviour of the delinquent. This sort of high-handed behaviour on the part of the employee can never be tolerated by any Management. The Trade Union leader

has also to abide by the rules and conduct himself properly. In spite of colleagues asking him not to argue with the Clerk and not to abuse the Clerk he seems to have taken an attitude that he can ride rough shod and he can abuse people. I am fully convinced that the enquiry is perfectly valid and it is in no way vitiated by reason of any irregularity or infirmity. It is a free and fair enquiry conducted in a most impartial manner. The Enquiry Officer's report is fully based upon facts which are well established by over-whelming evidence. I hold that the domestic enquiry is perfectly valid."

5. In this adjudication on merits Sri Vidyasagar representing Sri G. Bikshapathy, Advocate for the workman contends that by reason of Section 11-A of the I.D. Act, the Industrial Tribunal has power to reappraise the evidence and come to the conclusion whether the findings are based on evidence or not. He also contends that if the Tribunal comes to the conclusion that the punishment is excessive instead of dismissal a lesser punishment can be imposed. He places strong reliance upon a few decisions. He also contends that particulars of past record should be considered and order should indicate this fact. In the present case there is no proof of past record being considered. In the end he contends that dismissal for mere abuse is highly improper and unjust and the punishment is shockingly disproportionate to the **misconduct committed by the delinquent**. He prays that a lesser punishment may be imposed.

6. On behalf of the Management, it is argued that this is a case of a person who is accustomed to pick up quarrels and abuse superiors. He had a hopeless record during the past. This worker is repeatedly indulging in these acts. Even if we consider the afternoon incident as something that took place on the spur of the moment, his repeated performance in the night at 11.00 P.M. clearly indicates that it is not a stray incident or the result of pent up anger or momentary loss of balance. It is clear case of pre-meditated and designed act. No management can tolerate this type of conduct on the part of the subordinate. If this type of conduct is condoned it will demolish the very structure of discipline in the industry. Under no circumstances, the worker deserves any mercy. **The punishment of dismissal of appropriate in the circumstances of the case.** This is not a case where Section 11-A can be invoked.

7. The points for consideration are whether Section 11A can be invoked and whether this is a fit case in which lesser punishment should be imposed in lieu of punishment of dismissal imposed by the Management?

8. Ex. M1 charge sheet gives the full details of the misconduct indulged in by the worker. The facts revealed by the charge sheet are the worker came late for the second shift on 20th March, 1985 and when he was not allowed to sign in the Register,

he threatened and abused the Clerk and then approached the J.T.O. and misbehaved in an disorderly manner and abused him in filthy language challenging his authority for not allowing him on duty. Then the workers stopped movement of all vehicles till 3.45 P.M. by instigating the other Drivers. Again that night at 11.00 P.M. he came and questioned the Clerk, asked him to close the Section and misbehaved with him, threatened and abused him. The charge sheet also mentions that this employee is in the habit of misbehaving with the superior officers in the past and that he was warned and some enquiries were also in progress. A reading of Exs. M5 and M7 gives us a clear picture of the objectionable acts indulged in by the charge sheeted employee. The first witness K. Paul, a Clerk of the Transport Section gives a detailed account of what happened. This indicates that at 3.15 P.M. he came to report for duty, when he should have reported for duty prior to 3.00 P.M. When the Clerk objected and marked absent, the charge sheeted employee V. Ramaswamy took away the muster book and approached J.T.O. What exactly happened between Ramaswamy and J.T.O. was not known to this witness. Then Ramaswamy told the drivers not to take charge as the **Clerk has not taken him to duty, that all the drivers were stopped at J.T.O. office upto 3.45 P.M. without taking charge of the vehicles.** At 3.45 P.M. some drivers came to the J.T.O. office and asked other drivers to take charge of the vehicles. Then the drivers took charge of the vehicles and attended to their duties. Ramaswamy left the premises of the J.T.O. Office. He again came at 10.15 P.M. when the clerk was on duty. Then he started abusing the Clerk in a most filthy language and threatened him to close the muster book. Then Ramaswamy took away the Register and threw it outside the office in front of Kanakaiah, driver and other drivers present. All the drivers including Kanakaiah have taken Ramaswamy outside and pacified him and scolded him for abusing, quarrelling and using filthy language against the Clerk. Subsequently they took him away. The evidence of Kodanda Ramaiah, J.T.O. indicates much worse conduct on the part of the charge sheeted employee. On 20th March 1985 in second shift Sri K. Paul, the Clerk informed him that V. Ramaswamy, driver came late at 3.15 P.M. and tried to book his muster when objected, he took away the book. In the meanwhile Ramaswamy entered the room of the J.T.O. with the muster register which is not supposed to be carried by him. He insisted the J.T.O. to take him on duty. Then Ramaswamy questioned his authority and then started abusing him in most filthy language. He also challenged that he would come in all shifts and check the booking of musters. Though it is not his duty. Then he stated because I have abused you in the most vulgar language do not cry. When the J.T.O. requested him to talk in a polite manner, the delinquent replied "Nee bondha" i.e. your dead body and ignored him. Then he left the room in a riotous manner stopped all other drivers upto 3.45 P.M. Meanwhile he brought one delegate from G.D.K. No. 6. Incline and that delegate requested him to take Ramaswamy on duty without following or observing five to ten minutes late coming rule. Then Kodanda

Ramaiah informed the delegate he is not much bothered about five or ten minutes late, he is more particular about misbehaviour of Ramaswamy. He told him that if Ramaswamy apologises for his misbehaviour then he would consider whether he should be taken on duty or not. The delegate and some others then told him that they would apologise on behalf of V. Ramaswamy because Ramaswamy refused to do so. Then the witness informed that that when Ramaswamy uttered unparliamentary language and misbehaved what is the point of your apologising. Then all the drivers went out and Sri S.R. Krishna, Driver asked all other drivers to take charge of all the vehicles and go for duty. On 21st morning he got a complaint from K. Paul with regard to incident that took place at 10.15 P.M. in the night. In the cross examination the witness asserted that Ramaswamy used filthy language against him. The evidence of these witnesses is well corroborated by the other witnesses. In fact even the defence evidence indicates that an incident did take place. It is well established that the delinquent used most filthy language against the Clerk as well as J.T.O. and he abused them and behaved in a riotous manner and questioned their authority. Even his own colleagues offered to apologise on his behalf on the ground that the person who committed the mistake is not prepared to repent. J.T.O. refused to take the apology offered by others. It can safely be said that the delinquent behaved in a riotous manner, abused the clerk and the J.T.O. in the most filthy language and he instigated other drivers and stopped their work till 3.45 P.M. In fact his own colleagues felt that his conduct was improper and they offered to apologise on his behalf. In the incident that took place in the night also it was the other drivers that chastised the delinquent and then took him away. The abuses and behaviour are the worst type, most unprintable language is used while abusing the Clerk and the J.T.O. His conduct indicates that he feels that he can ride rough shod over every one. No management can tolerate such conduct especially from a person who had a consistently bad record.

9. The Enquiry Officer's report Ex. M-18 is a very well reasoned report and the Enquiry Officer rightly relied upon admissible evidence and came to appropriate conclusions. His findings are perfectly justified on the material placed before him.

10. On the basis of these above well established facts we have to see whether Section 11-A of the I.D. Act can be invoked in this case and whether this is a fit case in which a lesser punishment should be imposed. It should be remembered that prior to introduction of Section 11-A of the I.D. Act, the quantum of punishment is exclusively within jurisdiction of the disciplinary authority. On behalf of the worker, strong reliance is placed upon 1978(1) LLJ, page 37 (V. SUBBAIAH v. ANDHRA HAND-LOOM WEAVERS COOPERATIVE SOCIETY LTD.). This is the case where the disciplinary authority failed to take into consideration the clean past record of the delinquent. In such circumstances the Court struck down the order of dismissal and then remanded the matter and directed the Society to consider the question of awarding punishment to

the petitioner in the light of its statutory and contractual obligation and in the light of requirements laid down by Sub-Rule 3 of Rule 20 of the Shops and Establishments Rules. The High Court also made it clear that they are only quashing the final order and they are not quashing the proceedings which laid to the dismissal of the petitioner. In the body of the judgement the Court dealt with the question what is the effect of the failure on the part of the Society to taken into account the petitioner's clean past record. At page 42 the Court observed as follows :—

"In our opinion this is not mere question relating to the quantum of punishment. The question which has been raised before us relates to the failure on the part of the first Respondent-Society to give effect to the statutory protection conferred upon the petitioner by sub-rule (3) of Rule 20. When we thus look at it, we have got to come to the conclusion that the first respondent-society committed an act of **illegality in ignoring the statutory provision of sub-rule (3) of Rule 20 of the Andhra Pradesh Shops and Establishments Rules.** It is not open even to the petitioner to forego the right conferred upon him by sub-rule (3) of Rule 20 because Section 58 of the A. P. Shops and Establishments Act provides that any contract or agreement whereby the employees relinquishes any right conferred by that Act shall be null and void in so far as it purports to deprive him of such a right."

11. In the present case on hand the past record of the charge sheeted employee has been considered. In fact even at the stage of charge sheet, it was clearly stated that this delinquent is in the habit of picking up quarrels and abusing superior officers and that he was facing a number of enquiries. On several occasions he was charge sheeted and found guilty but a lenient view was taken and lesser punishment was imposed. The principles laid down in 1978(1) LLJ, page 37 cannot apply to the facts of the present case.

12. Sri Vidvasagar mentioned before the Tribunal that in 1982(1) LLJ, page 472 (RAMAKANT MISHRA v. STATE OF UTTAR PRADESH) for the case of indiscreet language used by the Union office bearers with-holding of two increments was considered to be proper. I find that there is no such decision reported in 1982(1) LLJ, page 472. In fact at page 472 we have a portion of the judgement in V. T. KHANZODE v. RESERVE BANK OF INDIA. The decision commenced at page 465, that decision has nothing to do with Section 11-A.

13. In 1983(1) LLJ, page 261 (R.M. PARMAR v. GUJARAT ELECTRICITY BOARD) is a case dealing with scope and application of Section 11-A. The bench of the Gujarat High Court was dealing with the case where a helper was found guilty of two charges, (1) Absence from duty for about two days without obtaining prior permission and (2) theft of scrap material such as nuts, bolts and screws valued at less than Rs. 50.00. The Management dismissed him and the Labour Court came to the conclusion that there was an infirmity in the order of dismissal and that it was a case where lesser punishment deserve

to be awarded under Section 11-A of the I.D. Act. The Court observed at page 263 as follows :—"Claiming reduction of penalty is his right and not something for which the employee has to beg of the Labour Court on bended knees and folded hands. Insisting on this as a precondition for exercise of power under Section 11-A, the Labour Court has addicated its jurisdiction altogether and scuttled the purpose and policy of the Legislature. Thus, there is no effective exercise of power under Section 11-A. This is one reason why the matter required to be remanded for a fresh decision in accordance with law uninfluenced by the circumstances that he did not plead guilty." That decision is not of any help to the delinquent, in this case because the facts are totally different; and for minor misconducts the maximum punishment of dismissal was imposed in that case. Cases of abusing superiors and riotous behaviour by subordinate officers stand on a totally different footing. In cases of the present type what is at stake is discipline in the industry and if high handed behaviour and insubordination and riotous conduct are ignored and condoned the very structure of the discipline in the industry would collapse. The Management will not be in a position to run the industry. In such cases it has always been held that the punishment should be deterrent and no mercy need be shown. In 1955(II)LLJ, page 250 (LAKSHMI DEVI SUGAR MILLS LTD. JADUNANDAN SINGH) the Labour Appellate Tribunal of India laid down the law as follows :—

"If a workman even if he happens to be a very active and important member of a Union is permitted to use abusive and insulting language and such conduct is tolerated, the management would suffer immensely. Use of abusive and insulting language by an employee of a concern in addressing his superior officer like the General Manager, would undoubtedly make his conduct an act subversive of discipline justifying dismissal.

Interference by industrial tribunal in the punishment of dismissal in such a case on ground of its being excessive must be held to be unwarranted in the absence of proof of any victimisation. The legal position is absolutely clear that if in a particular case the management charges an employee with misconduct, issues a charge sheet and as a result of its enquiry comes to the conclusion that misconduct is proved to its satisfaction, it might impose such punishment on the employee as the standing order provides, when such is the cases it is not open to the Industrial Tribunal to interfere with the punishment unless the punishment inflicted is such as to shock its conscience so as to give an indication of victimisation." If we examine the so called offensive language used in that case it is a mere trifle when compared to the vulgar and filthy abuses which the present delinquent heaped upon the Clerk and his officer J.T.O. In the present case he not only used abusive language right on the face of the officials but even threatened them and instigated the other drivers from not taking the vehicles. The conduct of the delinquent is most intolerable. The Management is perfectly justified in imposing punishment of dismissal.

AIR 1960 Kerala Page 105 (SUPERINTENDENT, NELLUKAI ESTATE v. THEIR WORKMEN) deals with a case where one of the workers went for work half-an-hour late and the writer informed him that no work could be given to him as he has come late. The worker concerned vulgarly abused official superiors and then four other workers joined him and all of them incited the other workers working in the field to leave their work as a result that 33 out of 39 left the field without permission of the Plucking Writer. After conducting the enquiry they were dismissed taking into account their previous conduct sheet. When the matter went before the Tribunal, the Tribunal held that the Management has not followed the principles of natural justice and that they did not inform the workmen regarding the enquiry. The Tribunal rejected the allegations about the order of dismissing being the result of vindictiveness or unfair labour practice. Against the Award passed by the Tribunal setting aside the order of dismissal the writ was filed and High Court found fault with the findings of the Tribunal regarding not following the principles of natural justice and about the workers being informed and their being present at the time of enquiry. The High Court did not disturb the findings of the Tribunal regarding the quantum of punishment. Ultimately on the ground that the Tribunal recorded a finding without advertising or even without noting and totally ignoring the admission of the workers about service of notice; Award of the Tribunal was set aside. Because the Tribunal acted illegally writ of certiorari was issued.

14. It is quite clear that in all cases high-handed behaviour by workman and abusing the superiors. Courts have found that the Management is justified in dismissing such subordinates. Tolerating such unlawful behaviour and riotous conduct would only give encouragement to other workers to behave in rebellious manner. Cases of this type have to be dealt with an iron hand.

15. As rightly observed by this Tribunal in the order dated 4th July, 1988 this charge sheeted employee who is an active Trade Union leader seems to think that he is entitled to privileged treatment and that he can ride rough shod over others. He was picking up quarrels with everybody. His own colleagues tried to pacify and some applied on his behalf for his misbehaviour. This sort of high handed behaviour on the part of the workman cannot be tolerated by any management. The Trade Union leader also should abide by the rules of conduct and conduct himself properly. In spite of colleagues asking him not to argue with the Clerk and not to abuse the Clerk, he seems to have taken the attitude of he can ride rough shod and he can abuse anybody. The fact that he repeated the performance by coming at 10.15 night and again abused the clerk is a clear indication that it is case of deliberate and designed misbehaviour and it is not due to momentary loss of balance or due to pent up anger. I am fully convinced that this is not a fit case in which Section 11-A of the I. D. Act can be invoked. There is no justification for imposing lesser punishment.

15. In the result I answer the reference as follows :—The action of the Management in dismissing V. Ramaswamy, Driver with effect from 25-10-1985 is perfectly justified. He is not entitled to any relief.

Award is passed accordingly.

Dictated to the Stonographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 27th day of October, 1988.

D. J. JAGANNADHA RAJU, Industrial Tribunal

[No. L-21012/41/86-D.III(B)]

APPENDIX OF EVIDENCE

Witnesses examined for the Management and Workmen :

NIL

Documents marked for the Management :

Ex. M-1 by consent.—Charge sheet dt. 21-3-85 issued to V. Ramaswamy by the Management of S. C. Co. Ltd., Ramagundam Collieries.

Ex. M-2 by consent.—Acknowledgement from V. Ramaswamy.

Ex. M-3 by consent.—Enquiry Notice dt. 27-3-85 issued to V. Ramaswamy by D.C.O.S.F.G.

Ex. M-4 by consent.—Explanation dt. 29-3-85 to the charge sheet submitted by V. Ramaswamy to the Dy. C.O.S. Godavarikhan.

Ex. M-5 by consent.—Enquiry Proceedings 29-3-85.

Ex. M-6 by consent.—Enquiry Notice dt. 31-5-85 issued to V. Ramaswamy by Sr. J.E. E. (Auto) RG.

Ex. M-7 by consent.—Enquiry Proceedings dt. 3-6-85.

Ex. M-8 by consent.—Enquiry Report dt. 15-6-85.

Ex. M-9 by consent.—Letter dt. 18-2-86 addressed by V. Ramaswamy to the General Manager, Ramagundam Area I, S. C. Co. Ltd., with regard to supply of enquiry proceedings and findings of the enquiry officer.

Ex. M-10 by consent.—Letter dt. 21-3-86 addressed to V. Ramaswamy by the G.M.R.G.T. with regard to enquiry.

Documents marked for the Workmen :

NIL

का.अ. 3622—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये, केन्द्रीय सरकार व मेसर्स सिंगरेनी कोलियरीज कम्पनी लि., कोठागुडम खम्मम जिला, आंध्र प्रदेश के प्रबन्धन के सम्बन्ध में निम्नलिखित शर्तों के बीच, अन्वये में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 15-11-88 को प्राप्त हुआ था।

S.O. 3622.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited Kothagudam, Khammam District and their workmen which was received by the Central Government on the 15-11-1988.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

Dated the 11th October, 1988.

Industrial Dispute No. 41 of 1985.

BETWEEN

The workmen of Singareni Collieries Company Limited, Kothagudam, Khammam District (A.P.).

AND

The management of Singareni Collieries Company Limited, Kothagudam, Khammam District (A.P.).

APPEARANCES :

Sarvasri G. Bikshapathy and G. Vidya Sagar,
Advocates for the workmen.

Sarvasri K. Srinivasa Murthy, H. K. Saigal and
Miss G. Sudha, Advocates for the management.

AWARD

The Government of India, Ministry of Labour through Order No. L-21011/2/85-D.III (B) dated 31-5-1985 and Corrigendum dated 25-7-1985 referred the following dispute under Sections 10(1)-(d) & 7A of the Industrial Disputes Act, 1947 between the employers in relation to the management of Singareni Collieries Company Limited, Kothagudam and their Workmen to this Tribunal for adjudication :

“Whether the management of Singareni Collieries Company Limited, Kothagudam is justified (i) in continuing contract labour in different works such as crack filling, unloading of coal from break down lorries on their way to C.S.P. fencing repairs, pipe lifting and carrying, filling road pot holes, unloading of material brought from stores carrying ACC sheets to quarters for the purpose of repairs, watching vacant quarters till they are occupied by the allottees, assisting plumber, cleaning the road and road repairs and valve operations as and when required, and (ii) in not absorbing Sarvasri P. Satyanarayana and 46 other Mazdoors

of Building Department in Company's services. If not, what relief are the workmen concerned entitled?"

APPENDIX

1. P. Satyanarayana.
2. T. Ramesh.
3. J. Rajeswara Rao.
4. J. Wilson.
5. J. Kanakaiah.
6. U. Mallaiah.
7. V. Jayaraj.
8. Ch. Janiratham.
9. S. Ramaswamy.
10. Sk. Afzal.
11. P. Dhanraj.
12. K. Ramambhanna Rao.
13. A. Mallaiah.
14. E. Saraiah.
15. C. Rajamogili.
16. M. Arunkumar.
17. Ch. Ghattiah.
18. P. Chandriah.
19. G. Jageswara Rao.
20. M. Venkatachalam.
21. Modapu Venkiah.
22. K. Poshaiiah.
23. M. Sambasivarao.
24. E. Venkateswarlu.
25. S. V. Raghavender Rao.
26. P. James.
27. M. Sarangapani.
28. J. Ajaykumar.
29. A. Illiah.
30. M. Babu Rao.
31. R. Narayana Rao.
32. P. Sreenivas.
33. Sk. Meera.
34. Sk. Naseeruddin.
35. Sk. Ibrahim.
36. G. Kumaraswamy.
37. J. Kanakaiah.
38. P. Sreeramulu.
39. M. Samuel.
40. D. K. Balaram.
41. B. Durgaiah.
42. B. Rajalingu.
43. C. Gopi.
44. Poshalu.
45. T. Kumar.
46. P. Mutesh and
47. B. Swamy".

2. The claim statement briefly runs thus :—

The Petitioner is a registered Trade Union. The workmen concerned in the dispute are members of this Union. The Union espoused the cause of these workers for relief under the Industrial Disputes Act. In the reference only 47 workmen are mentioned. Their names are given in Annexure I to the claim statement. Apart from these 47 workmen, there are some more workmen who are similarly situated and who are working in the Building Department. Inadvertently their names were omitted during the conciliation proceedings. The Union has taken up their matter to the Government of India for inclusion of their names in the reference. The names of those workers are given in Annexure II to the claim statement. The petitioner-workmen are engaged in various trades and they have been working continuously for period ranging from 5 to 8 years. The management has been designating them as contract labour with a view to deprive them of their legitimate rights under the I.D. Act and other labour legislations. The various benefits which are extended to the employees under the N.C.W.A's are not extended to these workers. The Company has been treating them with step-motherly feeling. They are being discriminated against. As there was no meeting point, the conciliation proceedings failed and Government of India referred the dispute to this Tribunal.

3. The Building Department of the Respondent Company consists of various sections. Their work is perennial and continuous. They look after the maintenance of quarters, repairs and maintenance of water distribution system, perform duties of watchman, road repairs and loading and unloading lorries which are subject to breakdowns. They also look after pump driving, valve operation, cleaning filterbeds, plumbing work etc. Their work is neither seasonal nor temporary and it is perennial and continuous. The Wage Board constituted for the Coal Industry deliberated on the issue of casual labour and contract labour several times. The Wage Board felt that workmen employed on permanent nature of works should not be engaged on casual basis or on contract system. Contract Labour (Abolition & Regulation) Act also came into existence. In the Building Department of the Respondent no contractor is appointed as per that Act. Workmen engaged in the department are being designated as contract labour. These workmen are paid on daily rate basis that too they are being paid the minimum prescribed by the Govt. of India. Other benefits available to the workmen of the Respondent are not extended to these workmen. They should be deemed as the workmen of Singareni Collieries Company Limited. The Union understands that by manipulating the records they are paying lumpsum amount to unknown contractor whose details are not available with the Company nor is any agreement entered into by the Company with the Contractors. By some clandestine arrangement a contractor is shown and these workers are shown as contract labour as solely with the object of denying them the benefits under the various enactments and coal wage agreement. The Building Department is a permanent department. Its work is of a permanent character. The work is extracted from these workmen continuously and it is supervised by

This reference was registered as Industrial Dispute No. 41 of 1985 and notices were issued to the parties.

the officials of the Building Department. Under N.C.W.A. III the minimum daily rate is fixed at Rs. 21.16 paise. The annual increment of 40 paise per day is provided but these workmen are now paid only 11.50 per day as minimum wage. They are entitled to wages in Category I as per N.C.W.A. III. Para 11.5 of Chapter by N.C.W.A. III specifically related to abolition of contract labour. It contemplates that where the work is of a perennial character contract labour shall not be engaged for such works. Under the Standing Orders of the Respondent-Company employees who work continuously for more than three months have to be confirmed; these workmen have put in more than 5 to 8 years of service continuously; they should be deemed to be permanent employees. After this reference has been made by the Government of India, the Company started refusing employment to some to the workers on some pretext or the other. This is deliberately done with a view to create an artificial break in service and with a view to victimise the workers. This is nothing but victimisation and unfair labour practice on the part of the Management. The workmen are entitled for absorption on a permanent basis in Category I and II depending upon the nature of the work turned out by them. The Tribunal may be pleased to hold that the action of the management in continuing the engagement of these persons wrongly describing them as contract labour is unjustified and illegal. A direction should be issued directing the management to absorb these workmen from the dates of the original appointments and pay them the wages of the respective categories as per N.C.W.A. II and III. They are also entitled to consequential benefits and arrears of wages and other attendant benefits.

4. The counter runs thus : The various allegations in the claim statement are denied. Without prejudice to the right of the Respondent it is submitted that the reference is bad as the workers mentioned in Annexure I and II of the claim statement are not employees of the S.C. Co. Ltd. They are only employees of the contractor. They are governed by the Contract Labour (Regulation and Abolition) Act. They are not governed by the I.D. Act. The Petitioner Union is not a recognised union though it was registered under the Trade Union Act, it has no representative capacity to engage with the Management as the workmen concerned in this dispute are not employees of the Respondent Company. They are not entitled to claim any relief under the I.D. Act. Similar type of dispute was raised by S.C. Company Workers Union which is a recognised Union relating to workers in the Building Department and main stores working under the Contractors. The Ministry of Labour after examination informed the parties that it has decided not to refer such demand for adjudication for the reason that question of confirmation by the management would arise only when they are employed by the management directly. Under the Contract Labour Act the principal employer is required to pay wages directly to the contract labour and later recover the same from the Contractor. The Petitioner Union has no locus standi to raise this dispute. The petitioners themselves are not definite as to how many workers are in the list. At several points of time, names were being added and deleted. At the time of negotiations and at the time of conciliation they were not definite about the number of workmen. On verification with

the contractors the management found that some of the men whose names are given by the Union are not working with the Contractors. The allegation that these workmen are working for the last five to eight years is not correct. The nature of work performed by these workers is intermittent in character and it is not continuous. The work is so little that it would be impossible for the Respondent to employ full time workmen. Hence only contract labour is engaged to get the work done. Through contractors these works are got done intermittently and people work in different categories of work.

5. It is incorrect to allege that the 47 workmen in the Annexure I are wrongly designated as contract labour with a view to mislead the workers and deny them wages under N.C. W.A. III. The management entrust the work to contractor as job works and the contractor is at liberty to bring any labour to do work. The contractor is paid on the basis of bills. These workmen are not employees of the management. N.C.W.A. and the Company's Standing Order are not applicable to them. They are not entitled to benefits to which the regular employees of the Company are entitled. The various legal provisions are misconstrued and misinterpreted. In the Respondent Company there is a Building Department with permanent staff. They discharge regular duties. The Industrial Engineering Department assess the nature of permanent work and provide the necessary staff. The works of intermittent character are got done through contractors who employed their own labourers. So long as the work is given on contract to the Contractor the Management will supervise whether the work is according to the specification or not. Only after the work is certified as satisfactory bills of the contractors are paid.

6. Under the law relating to abolition of contract labour industries should not employ labour through contractor for permanent and perennial works. The Respondent-Management has always implemented N.C.W.A. recommendations and it never violated them. The workers in Annexure I are not entitled to the benefits given by N.C.W.A. The management is registered under the provisions of the Contract Labour (Regulations and Abolition) Act and at no point of time the management violated that Act. The contractors engaged by the management also never violated the Act. It is not correct to say that there is no contractor and that there is a clandestine arrangement to show somebody as a contractor and that the legitimate rights of the labourers are being denied. These allegations are made to gain sympathy. The Respondent is a public sector undertaking having internal and external audit. J.B.C.C.I is reviewing the various aspects of work and wages and conditions of service. The recognised Unions will be raising disputes whenever recommendations are not complied with. Whenever any labourer engaged by the contractor is injured only on humanitarian grounds, medical benefit is given to them. This cannot give them right to claim parity of treatment with permanent workmen of the Management. If there is any dispute regarding the quantum of wages, it is a matter to be settled between the contractors and labourers. The management cannot come into the picture. The management is taking care to see that the contractors are com-

plying with the provisions of the Minimum Wages Act. Instead of raising a dispute against the contractor the workmen have unnecessarily implicated the management and raised this frivolous dispute. It is not correct to say that the work done by these workmen is of a perennial character and that it is of a permanent character. There is no relationship of master and servant between these 47 workmen and the Respondent. On mere surmise many false allegations are made. In spite of the correct legal position being clearly explained to the Union, it was not satisfied with the same and then raised this frivolous dispute. Now it is making allegation to indicate that the workmen are victimised and discriminated. The petitioner is put to strict proof of these allegations. Thus the workmen cannot be treated as permanent workmen nor can they be absorbed as permanent workmen of the Company. They are not entitled to any relief. They are not entitled to claim wages as workers of Categories I and II under N.C.W.A. as they are not entitled to any relief, the dispute may be terminated.

7. The points for consideration in this industrial dispute are :

- (1) Whether the Singareni Collieries Company Limited is justified in continuing contract labour in different works ?
- (2) Whether the Management is justified in not absorbing D. Satyanarayana and 46 other mazdoors of the Building Department in the Company service.

8. Points 1 and 2.—Sri G. Bikshapathi appearing for the workmen contends that the reference covers two aspects and by reason of the judgement of Hon'ble Justice P. A. Choudary dated 1-10-1986 in Writ Petition No. 12225/86 the first part is stayed and hence this Tribunal cannot go into that particular aspect. Sri Bikshapathi concentrates his arguments mostly regarding the second aspect which relates to absorption of the 47 workers mentioned in Annexure I. Sri Bikshapathi placed strong reliance upon the decision in 1985(i) LLJ, page 492 (WORKMEN OF BEST & CROMPTON v. THE MANAGEMENT) and contends that the observations of the Madras High Court fully apply to the facts of the present case and hence these 47 workers should be absorbed by the Singareni Collieries Company Limited. After they have worked for 5 to 8 years it is most cruel to deny them absorption. He also contends that under the Bipartite Settlement and N.C.W.A. III under Clause 11.5.1 it was specifically agreed that the industry shall not employ labour through contractors and engage contract labour on jobs of permanent and perennial nature. By reason of this also 47 workers mentioned in the appendix should be absorbed. Sri Bikshapathi contends that in this case 47 workers are employed directly by the Management and the claim of the Management that they are employed through contractor is not established as no evidence is produced to show that there was valid contractor with a licence and that the contractor employed them. In the absence of the existence of a validly appointed contract labour engaged through a contractor is also deemed to be labour engaged directly by the Management and hence these 47 workers should be deemed to be the direct employees of the management and under the Standing

Orders workers who have worked for more than three months are bound to be absorbed.

9. Sri K. Srinivasa Murthy appearing for the Management contends that in this case the reference itself is illegal, there cannot be a reference relating to abolition of contract labour. A large number of decisions of the Supreme Court have pronounced upon these aspects and after passing of the Contract Labour (Regulations and Abolitions) Act 1970 only the appropriate Government can direct abolition of the contract labour and the Court is not empowered to deal with such matters. The jurisdiction of the Tribunal and Courts is ousted. He places reliance upon the decision in 1971(ii) LLJ, page 567 (VEGOILS PRIVATE LTD. v. WORKMEN), in 1975 Lab. & Indl. Cases page 165 (BURMAH SHELL CO. v. INDO. TRIBUNAL, A.P.) and AIR 1985 S.C. Page 409 (B.H.E.L. WORKERS ASSOCIATION v. UNION OF INDIA) and contends that in view of these weighty pronouncements which are also relied on by a recent judgement of the A.P. High Court in Writ Petition No. 11, 181/86 dated 20th February 1987 this reference has to be closed.

10. Sri K. Srinivasa Murthy also contends that by reason of Hon'ble Justice P. A. Choudary's judgement dated 1-10-1986 in Writ Petition No. 12225/86 the Industrial Tribunal is prohibited from dealing with the first part of the reference. Unless the Tribunal decides the first part of the reference and unless the contract system is abolished, the question of absorbing the workers does not arise and hence there can be no decision regarding the second part of the reference. Sri K. Srinivasa Murthy points out that the High Court order dt. 1-10-1986 did not deal with the question as to whether the Government can refer the matter to the Tribunal or not, the judgement also did not pronounce as to whether the Industrial Tribunal has jurisdiction to deal with this matter. Unless the reference is valid and the Tribunal has jurisdiction, this Tribunal cannot adjudicate in the matter. Sri K. Srinivasa Murthy points out that by reason of the orders of the High Court dt. 1-10-1986 we are in a peculiar predicament. As indicated by the Supreme Court judgements, the Industrial Tribunal has no jurisdiction. Hence it cannot adjudicate in this matter. He urges that the Tribunal should follow the Supreme Court's decisions and ignore the judgement of the A.P. High Court dated 1-10-1986 and close the reference, because the Tribunal has no jurisdiction to adjudicate in this matter.

11. Sri K. Srinivasa Murthy raised another argument based upon Ex. W7 the Settlement dated 21-11-1986. He contends that under para 15 of the Settlement deed, demand No. 22 relating to abolition of contract system has been considered and the Union and the Management have come to an understanding which runs as follows :—"In reference to the demand for abolition of contract system in perennial jobs, the management agreed to abolish the contract system in perennial jobs, in Building Department, Health Department, C.S.P.s., Stores Workshop and Timbryards, the matter regarding employment of hamalis in Stores, Workshops and Central Workshops will be examined by the management. As regards the request of the Union for appointment of these

workers of the contractor directly by the Company the Management agreed to consider this request in accordance with the rules. If the workers want to rely on this para 15 of Ex. W7 the settlement is binding on all the employees present and future and hence it ceases to be a dispute and Industrial Tribunal has no jurisdiction to adjudicate. The Settlement is binding on all the employees. He contends that judged from whatever angle this Tribunal has no power to adjudicate this particular Industrial dispute.

12. On behalf of the workers Sri Bikshapathi replied to the arguments of Sri K. Srinivasa Murthy in the following manner "If there is a defect in the order passed by Hon'ble Justice P.A. Choudary on 1-10-1986 in Writ Petition No. 12225/86 the only remedy open to the Management is to file a writ appeal and canvass its correctness. The arguments now advanced cannot be advanced in this form. Even if it is presumed that the order is defective and that it is wrong order even then it is binding on this Tribunal. The correctness of that decision cannot be canvassed in his Court. He further contends that the main question is the absorption of labourers as regular employees. We are not now much concerned with the contract labour. These people have been employed by the Management for several years and in such a huge organisation as Singareni Collieries Company Limited, it is not difficult for the management to absorb these 47 workers. It would be cruel on the part of the management to deny them absorption especially when the recent decisions of the Supreme Court are all in favour of directing the management to frame rational scheme for absorption of these people.

13. In view of order passed by the High Court in Writ Petition No. 12225/86 on 1-10-1986 this Tribunal is prohibited from dealing with the first part of the reference. But the fundamental question is whether this Industrial Tribunal has jurisdiction to adjudicate in a matter of this nature and whether the reference is valid. In 1971(II)LLJ, page 567(VEGOILS PRIVATE LTD. v. WORKMEN) THE SUPREME COURT after exhaustively dealing with the matter observed in para 44 at page 579 as follows: "The Central Act, as mentioned earlier, had come into force on February 10, 1971. Under Section 10 of the said Act the jurisdiction to decide matters connected with prohibition of contract labour is now vested in the appropriate Government. Therefore, with effect from February 10, 71 it is only the appropriate Government that can prohibit contract labour by following the procedure and in accordance with the provisions of the Central Act. The Industrial Tribunal, in the circumstances, will have no jurisdiction though its award is dated November 20, 1970 to give a direction in that respect which becomes enforceable after the date of the coming into force of the Central Act. In any event, such a direction contained in the award cannot be enforced from a date when abolition of contract labour can only be done by the appropriate Government in accordance with the provisions of the Central Act. In this view also it must be held that the direction of the Industrial Tribunal abolishing contract labour with effect from May 1, 1971 regarding loading and unloading cannot be sustained." This decision of the

Supreme Court has been followed by the A. P. High Court in 1975 Lab. & Indl. Cases page 165 (BURMAH SHELL COMPANY v. INDUSTRIAL TRIBUNAL, ANDHRA PRADESH). The A. P. High Court observed as follows:—"We hold that after the Act came into force and Government has no jurisdiction to refer the dispute relating to the Regulations and Abolitions of Contract Labour Act. Under Section 10 of the I. D. Act to the Industrial Tribunal. Consequently the Industrial Tribunal also has no jurisdiction to adjudicate upon the dispute referred to it by the Government which admittedly relates to introduction of Contract Labour in the depots of the Company, we would therefore allow the appeals and set aside the judgement of the learned Judge and allow the Writ Petition. The impugned order of the Industrial Tribunal are quashed by issue of a writ of certiorari. In AIR 1985 S.C. Page 409 (B.H.E.L. WORKERS ASSOCIATION v. UNION OF INDIA) Supreme Court categorically laid down the law in the following terms. "It is clear that the Parliament has not abolished contract labour as such but has provided for its abolition in Central Government in appropriate cases under section 10 of the Labour Contract (Regulation and Abolition) Act. It is not for the Court to enquire into the question and to decide whether the employment of contract labour in any process, operation or other work in any establishment should be abolished or not. This is a matter for the decision of the Government after considering the matters required to be considered under Section 10 of the Act." In this decision the Court considered the provisions of the 1971 Act and come to the conclusion that the jurisdiction of the Court is ousted and the matter will have to be dealt with by the Chief Labour Commission of the appropriate Government.

14. In a recent judgement dated 20th February 1987 Hon'ble Justice Sardar Ali Khan of the A.P. High Court dealt with identical question as in the present case relating to the Management of Visakhapatnam Port Trust and contract labour, and after considering the Supreme Court decision, the A. P. High Court decision and other judgements observed as follows:—"There are some other cases also cited of the Supreme Court which lays down the same principles which need not be referred to for the simple reason that the principle is well established that the question of Regulation and Abolition of Contract Labour is a matter which falls within the domain of Contract Labour (Regulations and Abolitions) Act, 1970 to the exclusion of the jurisdiction of the Industrial Tribunal, under the I.D. Act. Considering the Supreme Court judgements and the A.P. High Court decisions I hold that the Industrial Tribunal has no jurisdiction to deal with this matter. With utmost respect as this Tribunal is prohibited from dealing with the First part of the reference, this Tribunal has no other later native except to close the reference. As rightly pointed out by Sri K. Srinivasa Murthy, the Tribunal and the parties are in a very peculiar predicament in this case.

15. Unless the First part is decided, the question of absorption of the 47 workmen which forms the second part does not arise. Subject to the above observa-

tions, I shall briefly deal with the oral and documentary evidence and make my observations regarding the merits of the case. I am conscious of the fact that under law as laid down by the Supreme Court, this Tribunal has no jurisdiction to adjudicate. But still for the sake of the fullness of the judgement, I feel that it is essential for the Court to point out what exactly are the real facts and hence I make the following observations.

15. The evidence given by W.W1 is nothing but an exercise in evasion. There are several admissions made by him in the course of evidence to indicate that none of these 47 workers were employed by the Company and that they were working under D. L. P. system i.e. Dairy Labour Report, they were never the employees of the Singareni Collieries. They were being engaged to do odd works at different departments at different points of time. There is absolutely nothing to show that they are directly appointed by the Management. W.W2 E. Saraiyah admits that nobody appointed him and that everyday he goes there and if there is work he is entrusted with the work. He tries to pretend that he is not employed through contractor Odellu. He admits that his muster is taken on a sheet of paper and at the time of payment his signature is obtained. He admits apart from him in the same area there are permanent masons and there is another D.L.R. mason. He admits that he signed Ex. M1 and received wages. He also admits that Yadagiri is shown as contractor for the month of June and that he signed and received the amount. He also admits that as the Employment Exchange has not sponsored his name he was never considered for direct recruitment as a permanent employee of the Singareni Collieries Company Limited. W.W3 Mallalah claims that he worked as Value Operators as D.L.R. Worker. He admits that there is no appointment order for him and that whenever there is work his services are utilised. He admits that he is paid under D.L.R. and according to Ex. W2 he was employed by the contractor Ch. Odellu. and Odellu is shown as contractor in Ex. M2. W.W4 is a Jamedar of the Security Department and his evidence shows that whenever there is shortage of Security Guards D.L.R. Workers from the Building Department are set for and their services are utilised for doing duties of absentee Security Guards. He admits that D.L.R. means Daily Labour Report and that services of D.L.R. employees are utilised only when there is absenteeism or sick leave on the part of the regular Security Guards. In the cross examination he categorically admits that they are casual workers and he does not know if they are working as contract labour. A muster would be maintained for them only on the days on which they work. Sometimes they work for one or two months and then go back. His evidence only establishes that these people work now and then as D.L.R. Workers under his control.

16. W.W5 and W.W6 are two witnesses who were not cross examined by the Management. His evidence indicates that whenever there is heavy work for permanent Fitters and whenever there are major re-

pairs for pumps they take one or two workers depending upon the workload and they take work from D.L.R. Workers. He gives names of the D.L.R. Workers who worked under his control. He admits that they are employed only on the basis of the needs of the work and they are paid daily wages of Rs. 11.50. W.W6 is a Carpenter and he speaks about the various D.L.R. Workers occasionally being made to work under him as Carpenter assistant. He admits that he takes D.L.R. workers as per the needs of the work. It can safely be said that from summary of the evidence, 47 workers are casual workers employed through contractors and they are treated as D.L.R. workers, who are paid minimum wages and they are employed as and when there is work. There is no proof of the fact that they were continuously doing the work but there is no truth in the allegation that the Management directly employed them. There is ample indication to show that they are employed through Contractors.

17. In this reference it is now found that the reference itself is illegal because the Tribunal has no jurisdiction to adjudicate the matter relating to Abolition of Contract Labour. It is only the Chief Labour Commissioner that can deal with that matter. The jurisdiction of the Tribunal is ousted by passing of this contract labour (Regulations and Abolitions) Act 1970. There are number of recent judgements of the Supreme Court depreciating the system of contract labour and in several cases the Supreme Court directed that a rational system would be evolved for absorbing the contract labour and casual labourers who have been working continuously for long periods. In 1988 (J) LLJ, page 370 (DAILY RATED CASUAL LABOUR EMPLOYED UNDER P & T DEPT. THROUGH BHARTIYA DAK TAR MAZDOOR MORCHA) which dealt with the case and 1988 (I) LLJ, page 397 which dealt with contingent paid staff of U.P. INCOME TAX DEPARTMENT and 1987 (MLJ), page 347 which dealt with contract labour in CATERING CLEANERS OF S. RAILWAY v. UNION OF INDIA have all given directions to the Managements to work out rational schemes and absorb these contract labour and casual labour and contingent labour who worked for fairly long periods as regular employees. Following the rational of these decisions and giving importance to the fact that under Ex. W7 the Management also agreed to abolish contract labour. I direct the Management to evolve a rational scheme and absorb these workers in the future vacancies that arise. They should be absorbed giving weightage to their seniority as D.K.R. Workers in the respective departments of sections. With the above directions the reference is closed.

Award passed accordingly.

D. J. JAGANNADHARAJU,

Industrial Tribunal

[No. L-21011/2/85-D.III(B)]

APPENDIX OF EVIDENCE

Witnesses Examined for Workmen :	Witnesses Examined for Management:
W.W1 S. Narayana Reddy	NIL
W.W2 B. Saraiah	
W.W3 U. Mallajiah	
W.W4 S. Narssaiiah	
W.W5 S. Sammaiah	
W.W6 P. Mattapalli.	

DOCUMENTS MARKED FOR THE WORKMEN

- Ex. W1 Chalan No. 74691 dt. 12-6-86 issued to one Saraiah by the Executive Engineer for taking iron pieces.
- Ex. W2 Leter No. A.E.C.M.S, dt. 19-3-84 issued by A. P. Colliery Mazdoor Sangh addressed to Asst Labour Commissioner(C) Vijayawada with regard to confirmation of P. Satyanarayana and 46 others.
- Ex. W3 Similar representation dt. 23-1-85 made to the Asst. Labour Commissioner(C) Hyderabad by A.P. Colliery Mazdoor Sangh.
- Ex. W4 Detailed views of the management on the dispute raised by the A. P. Colliery Mazdoor Sangh regarding confirmation of P. Satyanarayana and 46 other mazdoors in Building Department, of S.C. Co. Ltd., and their workmen represented by A.P. Colliery Mazdoor Sangh.
- Ex. W6 Annexure I of the claim statement.
- Ex. W7 Photostat copy of the Settlement dt. 21-11-86 under Section 12(3) of the I.D. Act between S.C. Co. Ltd., Kothagudem and their workmen, represented by S.C.U.U. (AITUC) in the matter of I.D. Strike Notice dt. 6-10-86 and 8-11-1986.
- Ex. W8 Notice dt. 12-12-86 given to B.P. Pai, General Manager, S.C. Co. Ltd., Kothagudem Area in I.D. No. 41/85 by S. Narayana Reddy, General Secretary with regard to memo of Settlement dt. 21-11-86 under Section 12(3) of the I.D. Act, 1947 to be filed by the Union before the Industrial Tribunal as an exhibit on behalf of the workmen.
- Ex. W9. Postal acknowledgement from B.P. Pai, General Manager, S.C. Co. Ltd., Kothagudem Area, P.O. Pudrampur 507119 to S. Narayana Reddy, General Secretary, Andhra Pradesh, Colliery Mazdoor Sangh (INTUC) Station Road, Kothagudem Collieries 507 101.

Documents marked for the management :

- Ex. M1 Contract labour payment body.
- Ex. M2 Contract labour payment body.

को. प्रो. 3623--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में केन्द्रीय सरकार ने सैसर्ज सिंगरेनी कोलियरज कम्पनी लि., रामकृष्णपुर, जिला अदिलाबाद के प्रबंधन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुसूच में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-11-88 को प्राप्त हुआ था।

S.O. 3623.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Singareni Collieries Company Limited Ramakrishnapur, Adilabad District and their workmen, which was received by the Central Government on the 15th November, 1988.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

Dated, the 7th October, 1988

Industrial Dispute No. 14 of 1987

BETWEEN

The Workmen of Singareni Collieries Company Limited, Ramakrishnapur, Adilabad Distt. A.P.

AND

The Management of Singareni Collieries Company Limited, Ramakrishnapur, Adilabad District. A. P.

APPEARANCES :

Sarvasri K. G. Kannabiran and J. Parthasarathy, Advocates for the Workmen.

Sri K. Srinivasa Murthy and Miss G. Sudha, Advocates for the Management.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-21012/12/85. D. III(B) dated 20th April, 1987 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employer in relation to the management of Singareni Collieries Company Limited and their Workmen to this Tribunal for adjudication :

"Whether the action of the Management of Singareni Collieries Co. Ltd., in relation to their R. K. -4 Incline in terminating the services of T. Rajaiah Mining Sirdar w.e.f. 5-6-83 is justified ? If not, to what relief the workman is entitled ?"

This reference was registered as Industrial Dispute No. 14 of 1987 and notices were issued to the parties.

2 In this Industrial Dispute, on 7th September, 1988 this Tribunal passed an order regarding the validity of the domestic enquiry. This Tribunal came to the conclusion that the domestic enquiry is perfectly valid, that the domestic enquiry is not in any way vitiated by any irregularities or illegality. The delinquent had ample opportunity to represent his case and the enquiry was conducted fully following

the principles of natural justice. The delinquent himself admitted his guilt and repented for it. In fact the enquiry conducted in this case is a superfluity. I hold that the domestic enquiry is perfectly valid." In that order pleadings have been set out in great detail and it would be unnecessary repetition to set out the claim statement and the counter elaborately in this order. However, I shall briefly mention the crucial points in the claim statement and the counter.

3. The workmen T. Rajaiah was served with charge sheet dated 9-4-1983. The allegation against him is on 8-4-1983 during the second shift at 4.45 P.M. near the Pit Office, Rajaiah approached the Safety Officer Mohamad Khaleel with the leave letter, when he asked him come to office, Rajaiah beat the Safety Officer with the stick in his hand. Subsequently a domestic enquiry was held and even in the explanation and the enquiry, the charge sheeted employee admitted his guilt and on the basis of the enquiry report, the services of the charge sheet employee were terminated w.e.f. 5-6-1983. The order of termination is contested as illegal and contrary to facts and evidence on record. It is also claimed that the punishment is grossly disproportionate to the misconduct alleged to be proved. He also raised various pleas to indicate that the domestic enquiry is vitiated.

4. In the counter, all the allegations in the claim statement were denied and it is claimed that as the charge sheeted employee admitted his guilt conducting the enquiry itself is a superfluity and in the enquiry which was conducted in accordance with the principles of natural justice, the allegation against the charge sheeted employee was fully established. As he is guilty of gross misconduct, the Management terminated his services on the basis of the report of the domestic enquiry. There is no illegality or irregularity in the enquiry. The punishment imposed is proper and just and it is not correct to say that it is completely disproportionate to the misconduct proved. The various allegations made in the claim statement are an afterthought. The dispute may be dismissed.

5. The validity of the domestic enquiry has been gone into as a preliminary issue and by an order dated 7th September 1988 it is now held that the domestic enquiry is perfectly valid. Now the further question that remains to be considered is whether the punishment imposed is grossly disproportionate to the misconduct proved in the circumstances of this case. When the matter was posted for enquiry on merits, both parties did not choose to lead any further evidence and arguments were addressed on the material available on record. On behalf of the workman Sri Parthasarathy contends that in this case the incident that took place is unfortunate and it is not a case of the charge sheeted employee assaulting the Safety Officer with any grudge or vindictiveness. It is a case where a frustrated man who had lost his mental balance due to family difficulties suddenly lost his cool and assaulted an officer. For such an incident the extreme punishment of dismissal is not justified. The punishment of dismissal is grossly disproportionate in the peculiar circumstances of the case.

6. On behalf of the Management, it is contended that in this case without any provocation simply because leave is not granted at the Pit and simply be-

cause the Officer asked the worker to come to the office for sanction of leave, the worker cannot assault his superiors. It is a case of gross misconduct and gross indiscipline on the part of the subordinate. If in cases of this type mercy is shown, it will have tendency to encourage indiscipline among the workers, and the morals of the officers would come down. It is also contended that if the Court condones misconduct of this type, it would amount to Tribunal encouraging indiscipline in the industry. If the punishment is not deterrent in a case of this nature, the officers of the Company will not be able to control workers in future. Considering all these facts, the punishment of dismissal is appropriate and under no circumstances can it be described as grossly disproportionate to the misconduct. Kumari Sudha urged that simply because the worker expressed his regret and prays for mercy in his explanation and in his statement before the Enquiry Officer, no mercy should be shown to him because these are the result of an after-thought and they are meant to save his skin. The Tribunal's order should be passed bearing in mind the psychological impact, it might create both on the workers and their discipline and moral of the officer who are expected to supervise the work of the industrial workers. She contends that the punishment of dismissal should be confirmed.

7. The point for consideration is whether the punishment of dismissal is appropriate for the misconduct committed by the delinquent or whether it is grossly disproportionate to the misconduct committed by the delinquent in the circumstances of the case?

8. Ex. M1 is the complaint given by Md. Khaleel, Safety Officer. This clearly indicates that T. Rajaiah, Mining Sirdar approached him with a leave application while he was on the way to office. He asked him to come to the office and returned the leave application and started moving to the main office. When he went two or three steps, Rajaiah lifted his stick and beat him on his back side causing injuries to him on the left and right hands and the back. Then Durga Prasad and himself intervened and prevented further beating. Ex. M3 is the explanation given by the charge sheeted employee for the charge sheet Ex M2. In this which was given on 9-4-1983 for the incident that took place on 8-4-1983, the delinquent expressed regrets for what happened and that he realised the consequences of his act only on 9-4-1983 and for the last one week due to family difficulties, he had no mental peace and that he lost all patience and he was not in a condition to know what he was doing. Only on 9-4-1983 he realised the gravity of his misconduct and he pleaded that mercy may be shown that he may be excused as he did not commit the misconduct knowing what he is doing or with any grudge or intention. Reading Ex. M3 it can safely be said that the incident took place on the spur of the moment and that the charge sheeted employee acted so because he lost his mental balance due to his continuous family difficulties and problems. He was not in a position to understand what he was doing. A reading of Ex. M3 gives the impression that the delinquent is fully repenting for what has happened. He expressed regret and he prayed for mercy. In the entire evidence that came to light in the enquiry proceedings Ex. M5, there is nothing to

indicate that the delinquent acted with any mala fide motive or acted vindictively or intentionally. He seems to have acted foolishly on the spur of the moment when he had no mental balance. Though it is a fact that the misconduct of the delinquent in assaulting superior officer is of very serious character, there is no justification for imposing the extreme penalty of dismissal from service taking into account the circumstances in which the incident took place. There is no material on record to show that on earlier occasions, this delinquent was behaving high handedly or that he was having habit of quarrelling with his superiors and colleagues and that he was in the habit of rebelling against superiors. The matter has to be considered sympathetically and with a human outlook considering over all circumstances of the case. I am conscious of the fact that the Tribunal should under no circumstances be a parity for condoning high handed deliberate acts of the workmen which have a tendency to encourage indiscipline. In the present case there is nothing to indicate that the delinquent acted with any motive or intention. The incident took place as he lost his mental balance due to his continuing family worries. Taking a sympathetic attitude I feel that in the circumstances of the case for the misconduct committed by the delinquent, the punishment of dismissal from service is grossly disproportionate. The delinquent has suffered sufficiently due to loss of service and wages from 5th June 1983 to this day. Considering the entire circumstances, I feel it would be just and proper to impose lesser punishment of stoppage of three annual increments with cumulative effect and direct his reinstatement without back wages, that would be adequate punishment for the serious misconduct committed by this delinquent who is now fully repenting for his wrongful acts.

9. In the result, I answer the reference as follows :
The action of the Management in terminating the services of T. Rajaiah, Mining Sirdar w.e.f. 5-6-1983 is not fully justified as the punishment is grossly disproportionate to the misconduct committed by the delinquent in the peculiar circumstances of the case. In lieu of terminating his services imposing lesser punishment of stoppage of three annual increments with cumulative effect and reinstating him without back wages would be adequate punishment that would meet the ends of justice.

Award is passed accordingly.

D. J. Jagannatha Raju, Industrial Tribunal.

APPENDIX OF EVIDENCE

Witnesses Examined for Workman :

W. W1 T. Rajaiah

WITNESSES EXAMINED
FOR MANAGEMENT :
M.W. 1 S. Janardhan Rao

Documents marked for the Management .

- Ex. M1 Complaint dt. 8-4-83 given by Md. Khaleel against T. Rajaiah to the Colliery Manager, Revinder Khani No. 4 Incline.
- Ex. M2 Charge sheet dt. 9-4-1983 issued to T. Rajaiah by the Colliery Manager, Ravindra Khani No. 4 Incline, S. C. Co. Ltd., Ramakrishnapur Division-II.
- Ex. M3 Explanation dt. Nil to the charge sheet submitted by T. Rajaiah to the Colliery Manager, R. K. 4 Incline.
- Ex. M4 Notices of enquiry dt. 13-4-1983 issued to T. Rajaiah by the Colliery Manager, R. K. 4 S. C. Co. Ltd., Ramakrishnapur Division-I.
- Ex. M5 Enquiry Proceedings.
- Ex. M6 Enquiry report.
- Ex. M7 Out Patient ticket of Md. Khaleel dt. 9-4-83 issued by Medical Officer.
- Ex. M8 Out Patient ticket of Md. Khaleel dt. 9-4-83 issued by Medical Officer.
- Ex. M9 Copy of the dismissal order dt. 2-6-83 issued to T. Rajaiah by the General Manager, MM. RKP Area, S. C. Co. Ltd., Adilabad Distt., A. P.,

DOCUMENTS MARKED FOR THE WORKMEN

NIL

(No. L. 21012/12/85-P III(B))

R. K. GUPTA, Desk Officer.

नई दिल्ली, 24 नवम्बर, 1988

का.प्र. 3624--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अन्तर्गत में, केन्द्रीय सरकार सेनियर मैनेजर वॉ. एण्ड टो मोटर सर्विस, मद्रास के प्रबन्धन से सम्बन्धित विवादों और उनके कर्मचारियों के बीच, अन्तर्गत में विद्विष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास, के पंचवट को प्रभावित करती है, जो केन्द्रीय सरकार को 16-11-88 को प्राप्त था था।

New Delhi, the 24th November, 1988

S.O. 3624.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Senior Manager, P & T Motor Service, Madras and their work-

men, which was received by the Central Government on the 16-11-88.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, MADRAS

Thursday, the 22nd day of September, 1988

PRESENT :

Thiru K. Natarajan, M.A., B.L., Industrial Tribunal.

Industrial Dispute No. 105 of 1987

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workmen and the Management of P & T Motor Services, Madras-6).

BETWEEN

Thiru S. Thiruvallimarpan, S/o K. Subbian, 1149, Block, 21st Cross Street, T. P. Chatran, Madras-600 030

AND

The Senior Manager, P & T Motor Services, Madras-600 006.

REFERENCE :

Order No. L. 40012/29/86-D.II(B), dated 2-9-1987 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Wednesday, the 3rd day of August, 1988 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru K. Chandru for Anna Mathew, Advocate appearing for the workmen and of Thiru P. B. Krishnamoorthy, Central Government Pleader for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This dispute between the workman and the Management of P & T Motor Service, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-40012/29/86-D.II(B), dated 2-9-1987 of the Ministry of Labour for adjudication of the following issue :

"Whether the action of the management of Senior Manager, P & T, Motor Service, Madras in terminating Shri S. Thiruvallimarpan, ex-casual driver from service with effect from 1-5-1986 is legal and justified? If not, to what relief is the concerned workman entitled?"

(2) The Petitioner in his claim statement states that he was appointed as a driver on daily wages on ad-hoc basis in the Respondent-Management by an order dated 26-8-1983, though he was called for interview to the post of Driver Grade 'C'. The Petitioner submits that he was born on 12-7-1953 and

at the time of his name being sponsored for the post, his age was below 30 years. He was working regularly without any break and when he requested for regular absorption, he was informed by an order dated 21-5-1980 about the termination of his service with effect from 30-4-1980. The Petitioner though moved the Central Administrative Tribunal, Madras Bench, he withdrew the same on legal advice and then he raised an Industrial Dispute before the Assistant Labour Commissioner (Central), Madras. The Conciliation since failed, his reference has been made by the Government. The Petitioner says the order of termination by the Respondent is contrary to Section 25-F of the Industrial Disputes Act as he was not offered any compensation and that juniors to the Petitioner are retained in the service. The notice given to the Petitioner for his termination is also contrary to Section 25-N(1)(a) of the Industrial Disputes Act. The Petitioner was well within the age limit for recruitment to the post of driver at the time of his initial recruitment and any subsequent reduction in the upper age limit have no relevance to the case of the Petitioner. In any event he having been selected he is entitled to age relaxation by counting his ad-hoc service in force.

(3) The Respondent in their counter statement states that P & T Motor Service cannot be termed as an 'industry' being a part of the department of Posts of Government of India. The Management is carrying out the functions of the postal department, namely the sovereign functions of the State and hence the dispute is not maintainable. The employer of the Petitioner is the Union of India and not the Senior Manager, P & T Motor Service. The Petitioner though was sponsored by the Employment Exchange for the post of Drivers he was not selected for regular employment and was kept in the waiting list for consideration in the event of any of the 11 persons who were selected regularly declining to accept the offer of appointment. While so the Petitioner and 7 others were informed by the Department that they were engaged on casual basis and that such employment will not confer on them any right or claim for absorption against existing or future vacancies in the cadre of Drivers. In response to the said offer, the Petitioner agreed to work on daily wage basis after giving written declaration to that effect on 29-8-1983. The letter dated 26-8-1983 is not an offer of appointment. He was employed only on ad-hoc basis. The Petitioner had the option either to accept or reject the casual employment. Regarding the allegations about age, he was 29 years as on 1-7-1983 as per his date of birth, viz., 12-7-1953. Any way, the representation made by the Petitioner was sent to higher authorities who had officially informed that the request of the Petitioner cannot be agreed to since the official was over-aged for recruitment as per the recruitment rules in force and there is also a ban on filling up the vacancies in the cadre of drivers. Hence this fact was communicated to the Petitioner and was given a month's notice intimating him that he will not be employed on a casual basis with effect from 30-4-1986. The employment of the Petitioner on a casual basis is legal and there is no question of termination and hence the application under

Section 25-F of the Industrial Disputes Act does not arise. It is also incorrect to state that juniors to Petitioner are retained in service. Section 25(N)(1) (a) of the Industrial Disputes Act has no application to the Petitioner's case. The Petitioner is not entitled to age relaxation. The Tribunal has no jurisdiction to entertain this matter.

(4) The point for consideration is :

(1) Whether the action of the Management of Sr. Manager, P & T Motor Service, Madras in terminating Thiru Govindarajulu ex-casual driver from service w.e.f. 1-5-86 is legal and justified.

(2) If not, to what relief and from what date, the concerned workman is entitled to.

(5) On behalf of the Petitioner, Exs. W-1 to W-4 were marked. On behalf of the Management Exs. M-1 to M-9 were marked. Since documents were marked by consent and the facts in this case have not been disputed and since only legal contentions have been raised, it is not necessary to discuss in detail about the nature of documents.

(6) The learned counsel for the Petitioner-workman would straight away contend that the Respondent-Management being an 'industry' within the meaning of Section 2(j) of the Industrial Disputes Act, the Petitioner being a "workman" ought to have been retrenched by following the procedure laid under Section 25-F of the same Act. In other words, it is the plea of the learned counsel for the Petitioner that failure to comply with the conditions precedent to retrenchment of workman under Section 25-F, the order of termination will become invalid and inoperative and consequently the retrenchment is not valid and the Petitioner has to be reinstated with all benefits. As against this contention, the learned counsel for the Respondent-Management vehemently contended that the Respondent-Management being a part of department of Central Government of India and the activities of the postal department can be carried out only by a State exclusively and not by any private individual or Company, it would not come under the definition 'industry' so as to contend that the Respondent has violated the conditions under Section 25-F of the Industrial Disputes Act. In short, this plea is that this Tribunal has no jurisdiction to entertain the matter and consequently the application of Section 25-F of the Industrial Disputes Act does not arise. It is also contended by the learned counsel for the Respondent-Management that the Petitioner who was employed only as a casual employee on daily wages and on ad hoc basis is liable to be terminated at any moment. In this connection, he would draw my attention to Ex. M-5, the declaration given by the Petitioner before accepting the offer of appointment as a casual employee. He undertakes that he has no right or claim for appointment as a permanent or daily wages driver. In the light of this declaration given by the Petitioner and also due to the fact that the representation of the petitioner under Ex. M-6 addressed to the Director of Postal Services having been rejected as per Ex. M-7, the Petitioner was informed by Ex. M-8 that

he would cease to be Casual Driver from 30-4-1986 or one month from the date of receipt of that letter whichever is earlier.

(7) The learned counsel for the Petitioner though would not dispute the correspondence with the Management would evidently contend that in as much as the Petitioner though employed casually, the provisions of Industrial Disputes Act would be applicable so long as the Respondent-Management is an 'industry'. In this connection he referred to various decisions to substantiate that P & T Department is an 'industry' as per definition of Section 2(j) of the Industrial Disputes Act. 1978-I-L.L.J. Page 349 (Bangalore Water Supply & Sewerage Board vs. A. Rajappa and others) is an of quoted decision on Section 2(j) of the Industrial Disputes Act. The Supreme Court has held various tests to decide whether any department or activity would fall under Section 2(j) to be called as an 'industry'. In 1979-I-L.L.J. Page 176 (K.R.B. Kaimal and another vs. Director of Postal Services, Trivandrum), the Petitioner who were employees of the Respondent Director of Postal Services, Trivandrum were removed from service. The removal was challenged by means of Writ Petition.

The court held as follows :

"A public utility service such as railways, telephones, and the supply of power, light and water to the public, even if it is carried on by corporations would be an industry coming within the ambit of the Act. Such activities cannot be considered to be sovereign or regal functions and solely because rules are framed under Art. 309 and 310 governing such employees, they will not be taken out of the scope of the Act."

In 1981-II-L.L.J. Page 382 (Tapan Kumar Jana Vs. Calcutta Telephones and others), the Calcutta High Court has held that Telephones is an industry within the meaning of Section 2(j). Similarly in 1982-II-L.L.J. Page 248 (Bhaskaran vs. Sub-Divisional Officer) the Kerala High Court after discussion in detail the various decisions of Supreme Court and also 1978-I-L.L.J. Page 349 came to a conclusion that P & T Department, a public utility service is an 'industry'. Thus it is clear from the above decisions that the activities of the postal department though exclusively performed by the Central Government they are severable and are engaged in industrial activities and therefore Section 2(j) of the Act is attracted and hence it is an 'industry'.

(8) Now having found the Respondent is an 'industry' it has to be seen whether workman who was employed as a casual Driver can be considered as workman. In this connection, in 1981-II-L.L.J. Page 382 (Tappan Kumar Jana Vs. Calcutta Telephones and others) the question arose whether Appellant being a casual labourer was a workman under Section 2(s) of the Industrial Disputes Act and the termination of service of the Appellant amounted to retrenchment within the meaning of Section 2(oo) of the Act. The High Court after an elaborate discussion held that the primary condition that has to be fulfilled by an

employee to bring him within the definition of workman is that he must be employed in an industry for hire or reward. The concept of permanent employment is not the only criterion of the definition of "workman". Any employee who satisfies the primary condition stated above and who does not come within the exceptions contained in the definition will be a workman. If a casual labourer is employed in an industry for hire or reward, he will be a 'workman' within the meaning of Section 2(s) of the Act there is nothing in the definition of term 'workman' which exclude a casual labourer. Hence it is enough that the workman permanent or temporary satisfies the provisions of Section 25B(2). Section 25B(2)(a) says "where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer has actually worked for not less than 240 days. Section 25B(2)(b) says "for a period of six months, if the workman, during a period of six calendar months, preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than...." In this case, admittedly, the Petitioner has been in continuous service from 26-8-1983 till 30-4-1986. Hence the Petitioner can be retrenched only by following the conditions contained in Section 25-F of the Act. In this case, admittedly, a month's notice has been given under Ex. M-8 on 21-3-1986 that his engagement as casual driver will cease with effect from 30-4-1986 or one month from the date of receipt of this letter whichever is earlier. But the notice of one month is not the only condition to be complied with under Section 25-F. It is not in dispute the workman has not been paid the retrenchment compensation as per Section 25F(b). In as much as all the conditions covered under Section 25-F have not been complied with the order of termination is invalid and in operative as per decisions of the Supreme Court. In this connection, in 1981-I-L.L.J. Page 363 (Ramani Mohan Industries Private Limited vs. Second Industrial Tribunal and others), the Calcutta High Court has held.

"The Provision of S. 25-F is mandatory. If there is any non-compliance with the said provision, the order becomes illegal. If the order becomes illegal, then the position is as if there is no such order at all and in such a case such retrenchment cannot be given effect to at all in any manner whatsoever. If the retrenchment is in violation of S. 25F, the employee concerned remains an employee and the question of awarding some compensation regarding his wages without granting reinstatement cannot and does not arise."

In 1931-I-L.L.J. Page 386 (Surendra Kumar Verma and others Vs. Central Government Industrial Tribunal, New Delhi) the Supreme Court has held :

"Plain common sense dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement in the services of the workman. It is as if the order has never been and so it

must ordinarily lead to back wages also. But there may be exceptional circumstances which make it impossible or wholly inequitable vis-a-vis the employer and the workman to direct reinstatement with full back wages."

As against these decisions, the learned counsel for the Respondent-Management is not able to lay his finger on any authority to disprove the contentions of the Petitioner. For these reasons, it has to be found the order of the Respondent is not justified. This point is found in favour of the Petitioner.

(9) Point No. 2 : it is the plea of the Petitioner that the workman should be reinstated with back wages. In this case, the Petitioner was employed only on a casual basis and obtained no permanent employment. He would not have any right or claim on the basis of recruitment under Ex. M-8. In addition to 11 candidates, a list of 8 candidates may be considered in the event of drop outs of any of the regular 11 candidates selected as per the above list and this will not constitute any waiting list for future absorption. In exigency of service, these 8 candidates may be engaged purely to work on daily wage basis without conferring any right or claim on their part for regular absorption either immediately or in future. It is further on the representation given by the Petitioner, the Respondent forwarded the same to the Director of Postal Services who rejected the representation as per recruitment rules at present and ban on filling up of vacancies. These facts would only show that the Petitioner was terminated from service without any mala fide intention. Therefore the retrenchment was inevitable. In this connection 1985-II-M.L.J. (Division Bench of Madras High Court) Page 432 has been relied on by Management. In that case, the question arose before High Court was : (1) Whether the Labour Court having held that the retrenchment is not mala fide but one which could be justified on the facts of this case, erred in directing reinstatement with full back wages. (2) Whether Labour Court is in error in awarding the relief of reinstatement with full back wages and that only an award of compensation is called for. The High Court held that it is not that in every case of infringement of Section 25-F, the award of reinstatement with back wages is a must by the Labour Court. In cases where the management is found to be justified in effecting retrenchment and its decision to effect retrenchment is not mala fide, the Labour Court will be exercising its discretion properly if a suitable compensation in lieu of reinstatement with back wages is ordered. In that case since the Labour Court granted relief of reinstatement with back wages, ignoring the fact that discretion is left with the Labour Court directing reinstatement with back wages and to award compensation instead. The order of Labour Court was set aside. Since the order of the learned Judge and also the award passed by the Labour Court were set aside the Labour Court was directed to pass fresh orders fixing suitable compensation in lieu of reinstatement.

ment for these four workman. The above decision being a Bench decision of our High Court it is binding on this Tribunal. Therefore, in this case, since retrenchment by the Management is not mala fide, the Petitioner is not entitled to be reinstated, but only entitled to retrenchment compensation.

(10) Coming to the actual quantum of retrenchment compensation, no evidence was let in either oral or documentary or either side. He was in employment as a Driver Grade-C for a period of 2 years 8 months (26-8-1983 to 30-4-1986). A lump sum amount of Rs. 500/- is fixed as retrenchment compensation. The Respondent-Management is directed to pay the compensation within a month from the date on publication of the award of this Tribunal.

award is passed. There will be no order as to costs.

1988

MINED

or both sides : None.

DOCUMENTS MARKED

For workman :

- Ex. W-1|28-5-88.—Letters from Petitioner-Workman to the Conciliation Officer.
- Ex. W-2|12-9-86.—Minutes recorded by the Conciliation Officer.
- Ex. W-3|24-9-86.—Conciliation Failure Report.
- Ex. W-4|24-11-86.—Letter from Petitioner-workman to the Government of India.

For Management :

- Ex. M-1|21-2-69.—Letter from The Management regarding Categorisation of M. M. S. Technical Staff (Xerox copy).
- Ex. M-2|18-7-83.—Letter from the Management addressed to the Petitioner-Workman and others regarding recruitment to the cadre of T. S. Driver (Gr. C) (Xerox Copy)
- Ex. M. 3|16-8-83.—Final Selection list of Drivers (Xerox copy)
- Ex. M. 4|26-8-83.—Letter from Management to the Petitioner-workman regarding engagement of Daily Wage Driver (Xerox copy)
- Ex. M. 5|29-7-83.—Declaration given by the Petitioner-Workmen.
- Ex. M-6|1-3-84.—Application of Petitioner-Workmen for recruitment of Driver.
- Ex. M-7|19-2-86.—Appointment order issued to the Petitioner-workman (Xerox copy)
- Ex. M-8|21-3-86.—Memo issued to the Petitioner-Workmen removing his service (Xerox copy)
- Ex. M-9|14-12-83.—Revised Recruitment rules (copy)

K. NATARAJAN, Industrial Tribunal.

[No. L-40012/29/86-D,II(B)]
HARI SINGH, Desk Officer